

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Council Offices, Cannards Grave Road, Shepton Mallet BA4 5BT, on Monday, 19 June 2023 at 10.00 am

Present:

Cllr Simon Carswell (Chair),
Cllr Connor Payne
Cllr Lance Duddridge (online)

1 Apologies for Absence - Agenda Item 1

None

2 Declarations of Interest - Agenda Item 2

None

3 Procedure to be followed when considering Licensing Applications under the Licensing Act 2003 - Agenda Item 4

The procedure was noted

4 Objection Notice received in respect of Bath Rugby Limited, Farleigh House, Farleigh Hungerford, Bath, BA2 7RW - Agenda Item 3

The Licensing and Business Support Officer was invited to present his report. He explained the Council had received an application from Bath Rugby Limited for a new Premises Licence at Farleigh House, Farleigh Hungerford, Bath, BA2 7RW.

The report explained Farleigh House was a Grade II listed 18th century country house standing on a 135-acre estate and was primarily used by Bath Rugby Club as their headquarters and an elite level training facility. The premises had undertaken a major refurbishment and the applicants were now looking to host weddings, private parties, and corporate events. Farleigh Hungerford was a village within the Parish of Norton St Philip in the Somerset Council area, 8 miles north of Frome.

The application asked for the following licensable activities:

Supply of Alcohol, Sunday – Thursday, 10:00 - 23:00 hours
Supply of Alcohol, Friday and Saturday, 10:00 - 01:00 hours
Regulated Entertainment, Friday and Saturday, 10:00 – 01:00 hours
Late Night Refreshments, Friday and Saturday, 23:00- 01:00 hours

The Council had received 34 representations from Other Persons that related to all four of the Licensing objectives. A site visit had taken place on 12 May 2023. A Licensing Officer had been present, along with 3 representatives of Bath Rugby, several local residents and 2 Division Members. A second meeting between the applicant and local residents had taken place on 16 May 2023. However, no agreement was forthcoming from these meetings therefore representations had been submitted. These were considered by Officers to be relevant, and the application was therefore referred to the Licensing Sub Committee to determine.

Some of the representations were very similar. Therefore, to help outline the concerns raised in all representations, the similar representations had been grouped together and appended to the report. The proposed conditions were a collective of all conditions suggested within the grouping of representations. The proposed conditions were also appended to the report.

Grounds for concern included the following:

- Guest behaviour when consuming alcohol
- Increased traffic
- Increased noise
- Increased light pollution
- Risk of injury due to increased traffic
- Use of fireworks
- Use of drones
- The number of events
- Size of events
- Children entering the licensable area and child safety
- The impact on wildlife
- Fear of crime
- Lack of privacy
- Respect for local residents

The Council had not received any representations from any Responsible Authority.

The Chair thanked the Officer for his report. He reminded members of the role of the Licensing Sub Committee. He noted that a lot of the representations had raised the same concerns, some of which raised issues relating to planning rather than

licensing.

The Council's Legal Advisor reminded Members that the Licensing Sub Committee were being asked to consider whether or not the application before them was acceptable in terms of the licensing objectives. She went on to explain the licensing objectives. She reiterated that the Licensing Sub Committee would not be able to consider planning issues as they were not relevant to this meeting.

Questions:

In response to questions the Officer confirmed neither the Council's Environmental Protection Team nor the Planning Team had registered an objection to the application.

The Officer read aloud the comments which had been submitted by the Environmental Protection Team. They had been satisfied with the Noise Management Plan and did not object to the application. The comments by the Planning Team were not permitted to be read because they were not relevant to the licensing objections.

The Chair invited the Legal Advisor to reiterate that the Licensing Sub Committee would not be able to consider planning issues.

The Officer confirmed the Noise Management Plan had been circulated.

There was concern from the Other Persons that the marquee might be considered as indoors.

The Senior Licensing and Business Support Officer said the Council's Environment Protection Team had confirmed that the marquee was considered as outdoors.

The Solicitor representing the Applicant disagreed. He felt the marquee should be considered as indoors.

The Officer confirmed that marquees were generally considered as outdoors. However, the Applicant's side remained unable to accept this. Other Persons pointed out that Appendix 5A of the report set out the Noise Management Plan which said Outside (Marquee) Music.

The Chair agreed to adjourn the meeting in order for an Environmental Health Officer to attend and give an expert opinion.

Richard Keith-Hill, Senior Environmental Protection Officer joined the meeting.

He explained there was no definition of whether a marquee should be considered as outdoors or indoors according to Environment Protection Law. However, marquees were considered to be acoustically transparent. He said in his view the application, including the Noise Management Plan, and including use of the marquee for live music had been acceptable. He confirmed the team had not carried out a noise impact assessment at the site and that he had not requested the Applicant to do so either.

He said that in the event of noise nuisance the Environmental Health Team would be able to enforce the Noise Management Plan. It would also be possible for the licence to be reviewed should it be necessary.

There remained concern from the Other Persons. They were concerned that live music events held between 11 pm and 1 am should be indoors only and not held in the marquee which they considered to be outdoors.

Applicant

The Chair invited the Solicitor representing the Applicant to speak. He said every licensable premises had a measure of risk. He said the representations had included worst case scenarios and the potential for problems. He did not accept that the Applicant would allow the Licensing Objectives to be undermined as a result of the application. He said application needed to be considered on its own merits.

He set out the details of the application, and the contents of the Noise Management Plan. He asked Members to note that the Senior Environmental Protection Officer had been satisfied with the application and had not required a noise assessment.

With regard to light pollution the Applicant did not accept that the lighting of the events would be a public nuisance.

With regard to crime and disorder as a result of the application. Neither the Applicant nor the Police considered this to be an unacceptable risk.

He said he would be happy to discuss the detail of the Traffic Management Plan. However, he understood this was not for consideration at the meeting.

He said the Applicant had held discussions with the residents in an effort to resolve concerns and the lines of communication was open to them.

He said the Applicant had accepted the additional proposed conditions which included a restriction on the number of events.

He said the Applicant was sensitive to the location of the premises. He said their reputation was important to them and they were aware that events would need to operate in a way that was mindful of its rural location.

He was satisfied that the application was legitimate including the detail that the marquee was considered within the application to be outdoors. However, he explained, in his opinion, marquees could be considered to be indoors based on other legislation such as smoking which was not permitted in marquees due to them being considered as indoors. However, he said activities within the marquee on this particular site would be treated sensitively so as not to cause a public nuisance. Although, he noted that the Senior Environmental Protection Officer had confirmed that even if the entertainment was held outdoors, it would still be acceptable to him.

The proposal was for up to 15 events this year and up to 50 events next year. A further condition was offered by the Solicitor of 80 events per year in the future, with 50% maximum having over 100 guests. However, they did not expect to hold that many events.

Questions:

In response to questions the Solicitor confirmed the Applicant had agreed to amend the application to finish events on Fridays and Saturdays at 00:30 hours. He agreed that the conduct of the Applicant was crucial.

There was a discussion about what would be an unreasonable nuisance. The Solicitor said it was not the intention of the applicant to disturb the public and prevent them from sleeping.

He confirmed no upper decibel limit had been set and that the Senior Environmental Protection Officer had been satisfied with this.

Representations by Other Persons

1 Ian Steuart Fotheringham was invited to speak. He said a large number of the local community in Farleigh Hungerford were opposed to the application because of concerns about noise nuisance and increased traffic. He said the application was likely to change the nature of the hamlet significantly.

He said Bath Rugby had a history of breaking conditions including the use of loud

horns during practice and holding practice sessions for longer hours than allowed. In his opinion, they had not proved themselves to be a respectful neighbour. They had already begun to take bookings for events based on a licence which they had yet to obtain.

He was concerned that the application would allow Bath Rugby to hold so many events that it would be a nuisance.

2 John Davidson was invited to speak. He gave examples of how Bath Rugby had been a bad neighbour over the last 12 years. He said the Applicant had not worked with local residents to resolve problems they had already experienced. Residents were particularly concerned about noise and traffic. For instance, a wedding held July 2016 had caused a noise nuisance. In his opinion, the response from Bath Rugby had been unsatisfactory. He doubted the Applicant would be able to manage the licence.

The Council's Legal Advisor reminded the Licensing Sub Committee that traffic was a planning issue and was not relevant to the meeting. She said the Sub Committee was being asked to determine whether the application before them would uphold or undermine the Licensing Objectives.

3 Parish Councillor Catriona Murfitt was invited to speak on behalf of the Norton St Philip Parish Council. She said she understood that Planning and Licensing acted separately from each other. However, she believed that the Licensing Sub Committee ought to be able to consider planning issues because the draft Somerset Licensing Policy said other relevant issues could be taken into account, and she believed that applicants should have Planning Permission in place before applying for a Premises Licence. Further she talked about discussion from the Government's Select Committee when they considered the determination of Premises Licences.

She said the Parish Council remained concerned that the application would undermine the Licensing Objectives and matters relevant to planning.

Councillor Adam Boyden was invited to speak. He was opposed to the application because of concerns for noise and an increase in traffic.

Questions:

In response to questions the Licensing and Business Support Officer clarified that the application had been subject to a consultation with Responsible Authorities. One of which was the Council's Planning Department. He confirmed they had

responded by saying they had no objection to the proposal.

The Chair thanked all of the participants and moved the meeting to the summing up.

Closing Submissions:

The Chair asked each part to make their closing submission.

Other Persons

Mike Smith was invited to speak. He said that the application had caused a huge amount to upset in the village. They were very concerned about the impact the application would have on the residents. They asked the Licensing Sub Committee to consider the wider picture and refuse the application.

Applicant

The Solicitor for the Applicant said he believed the application was legitimate. He said the Applicant would not be playing music blaring into the night. He noted that the Senior Environmental Protection Officer had not objected to the application even if the events were to be held outdoors. Nor had any other Responsible Authority raised any objection to the application. With regard to the representations from the Other Persons he felt some of the concerns were irrelevant and others were unlikely to be realised. He said the Applicant was not in any breach of Planning Permission.

With regard to the Licensing Objectives, he said the Applicant did not accept that public safety was at risk, nor that children would be put at harm as a result of the licence. The issue of prevention of crime and disorder had been satisfied by the Police. This left the prevention of public nuisance and particularly the potential for noise nuisance. He said it was inconceivable that the premises would not be very closely monitored.

The Licensing and Business Support Officer

The Licensing and Business Support Officer reminded the Sub Committee they must consider this application on its own merits and from the information contained within the application and the report.

Members were reminded that the duty of the Licensing Authority was to take steps necessary to promote the licensing objectives in the interests of the wider

community, the Licensing Objectives, as follows:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

In its decision-making process, the Licensing Sub-Committee must have regard to:

- Licensing Act 2003, and subsequent amendments
- The Statutory Guidance issued under Section 182 of the Licensing Act 2003.
- Somerset Council's Statement of Licensing Policy.

The options available to the Sub Committee were as follows:

- Grant the application with no modifications, and only attach conditions as required by the 2003 Act. These shall include mandatory conditions and conditions consistent with the operating schedule.
- Grant the application, modified to such an extent as the Licensing Authority considers appropriate for the promotion of the Licensing Objectives
- Refuse the application, giving reasons for its decision.

Should the Committee be mindful to attach conditions to the licence, they must only do so if they are:

- Appropriate, necessary, and proportionate
- Precise, clear, and unambiguous
- Practical, realistic, and enforceable
- Non-duplicative of existing statutory requirements or offences
- Modern and fit for purpose.
- Consideration must also be given the number of conditions being attached.

Finally, the Officer stated that all relevant parties to the decision of the Licensing Authority had the right of appeal to Magistrates Court, in connection with this matter. This must be done within 21 days of being notified in writing of the relevant decision.

The Chair thanked everyone for attending. He said the decision of the Sub Committee would be made known within 5 working days of the hearing.

Private Session

The Chair then closed the meeting and the Sub Committee considered the

application in private session.

RESOLVED:

On the evidence before it, having considered all the circumstances, in particular the expert opinion from the Environmental Protection Officer, the Sub-Committee grants the application for the Premises Licence as applied for, subject to the offered amendments as set out below and with the conditions as contained in the Operating Schedule.

The amended conditions are:

1. The Noise Management Plan submitted by the Applicant shall be complied with at all times that licensable activities are conducted and any amendments to the Plan shall be approved in writing by the Environmental Protection Team before being brought into force.

2. The Traffic Management Plan submitted by the Applicant shall be complied with at all times that licensable activities are conducted and all attendees at events where licensable activities are conducted shall be advised of appropriate routes of egress.

3. The number of events at which the licensable activities are conducted shall be restricted as follows:

- (a) For the period from the date of issue of the Licence to 31 December 2023: 15
- (b) From 1 January – 31 December 2024: 50
- (c) Each calendar year from 1 January 2025: 80 with no more than 40 of these having a capacity of over 100 persons.

4. No events at which the licensable activities are conducted shall be held on Mondays or Tuesdays and no such events shall be held on Boxing Day or Christmas Day.

5. All recycling and refuse collections at the Premises shall be carried out between the hours of 9:00am and 6.00pm.

6. No fireworks shall be permitted at events where licensable activities are conducted.

7. The Premises Licence Holder shall arrange and convene a minimum of two meetings every calendar year to which neighbouring residents of the Premises shall be invited to discuss previous and forthcoming events at which licensable activities are conducted.

The Sub-Committee delegates authority to the Licensing Officer to add these to the Operating Schedule on the licence as issued.

(The meeting ended at 1.00 pm)

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CHAIR