

Minutes of the meeting of the Licensing and Appeals Hearings Panel held at 10.30 am on Thursday, 6th October, 2022 at Council Chamber, Civic Centre, Stone Cross, Rotary Way, Northallerton, DL6 2UU

Present

Councillor R Kirk (in the Chair)

Councillor P A James

Councillor D Watkins

LAHP.4 **Application for the Review of a Premises Licence - The Royal, 57 Market Place, Thirsk**

Thirsk Ward

The subject of the decision:

The Director of Law and Governance submitted a report seeking consideration of an application from Environmental Health for a review of the premises licence in respect of The Royal Hotel, 57 Market Place, Thirsk.

Alternative options considered:

The Panel considered the options in paragraph 7.2 of the officer's report. The Panel was satisfied that a suspension or revocation was not necessary to address the concerns raised but modifications of the licence were required to adequately promote the licensing objectives.

The reason for the decision:

The Panel considered the application for review, the written and oral representations of the applicant, the Licensing Act 2003 as amended, the Council's Statement of Licensing Policy and the guidance issued under Section 182 of the Licensing Act 2003.

The Panel considered adjourning the hearing as the licence holder was not in attendance. The Panel was satisfied that the licence holder was aware of the review proceedings having been hand-delivered a copy of the application. The Panel was also satisfied that the relevant notice had been served on all parties and no request for an adjournment was forthcoming. The Panel noted that no representations had been submitted by or on behalf of the licence holder. The Panel therefore concluded that it was in the public interest to proceed with the hearing in the licence holder's absence to address the concerns raised without further delay.

The Panel was informed that the application for the review of the licence had been submitted following concerns of public nuisance resulting from entertainment on the premises and noise from customers.

Officers of the Council's Environmental Health Service confirmed that the last three premises licence holders have all been contacted in relation to noise concerns but the premises continue to be a source of public nuisance.

The Panel was presented with evidence gathered by Environmental Health Officers from a noise investigation commencing in August 2021. The Panel was informed that noise monitoring equipment had twice been installed in the property of a local resident and, on both occasions, music entertainment was audible. The Panel was also informed that officers had visited the premises three times between February and April 2022. On each occasion, officers observed audible music from outside the property.

The Panel heard recordings taken from outside the premises and from the property of a local resident between April and July 2022. The Panel was satisfied that the noise from entertainment and customers would be likely to cause a disturbance to nearby residents.

The Panel was informed that the premises licence holder had been served with a Community Protection Warning in March 2022 and a Noise Abatement Notice in May 2022 but neither of these measures had led to a satisfactory reduction in noise levels.

According to Environmental Health Officers, the premises licence holder had been given advice on numerous occasions on how to reduce nuisance by using a noise-limiting device, reducing bass frequency, controlling the volume, restricting the use of external areas and ensuring that doors and windows are closed while entertainment is being provided.

The Panel was satisfied that the licence holder had been given ample opportunity to implement reasonable measures to reduce public nuisance prior to the application for review being submitted.

The panel was concerned that, despite a Community Protection Warning and a Noise Abatement Notice being served, the premises continued to be a source of nuisance and the advice of officers did not appear to have had the desired effect.

The Panel was concerned by the licence holder's inadequate response to concerns raised by Environmental Health and it was equally concerned by the lack of engagement with the review proceedings. Members concluded that a modification of the licence was necessary to prevent public nuisance in future.

The Panel noted that there was no requirement for live and recorded music to be authorised on relevant licensed premises between the hours of 8am and 11pm provided that, in the case of amplified music, it is in the presence of an audience of no more than 500 people. Any conditions relating to live and

recorded music are therefore suspended at these times. However, on review of a premises licence, the licensing authority may lift the suspension and give effect to any new or existing conditions relating to music under section 177A of the Licensing Act 2003.

The Panel was satisfied, on the weight of the evidence provided, that any live or recorded music on the premises should be properly regulated and that appropriate conditions should be imposed with a view to promoting the licensing objectives.

Specifically, the Panel was satisfied that all live and recorded music should be controlled by a noise-limiting device and all doors and windows should remain closed when entertainment is being provided.

The Panel was also concerned by the noise emanating from customers using the beer garden and concluded that the external areas of the premises should not be used for licensable activities or be open to the public between the hours of 9pm and 10am.

The Panel considered a request from the applicant to restrict the number of music events to once every four weeks. The Panel was satisfied that the aforementioned conditions would be likely to adequately reduce public nuisance and therefore any restrictions on the frequency of events would not be necessary at this time.

The Panel noted that, in order to avoid conflict, a modification of the licence would require the removal and replacement of existing licence conditions.

The decision:

The Panel resolved to modify the licence conditions by replacing some of the existing licence conditions as follows:

New Annex 3 conditions to be imposed

- A noise limiting device shall be installed and set at a level to be agreed with the Council's Environmental Health Section and used at all times when regulated entertainment is taking place. The provisions of section 177A of the Licensing Act 2003 do not apply to this condition.
- Doors and windows shall remain closed except for access and egress when any regulated entertainment is being carried out. A self-closing device shall be fitted to the front and rear access doors for this purpose. The provisions of section 177A of the Licensing Act 2003 do not apply to this condition.
- No external areas of the premises shall be used for regulated entertainment between the hours of 9pm and 10am. The provisions of section 177A of the Licensing Act 2003 do not apply to this condition.
- No external areas of the premises shall be open for public use between the hours of 9pm and 10am.

Existing Annex 2 conditions to be removed

- No regulated entertainment of any type shall take place outside the Premises in any areas which are in the Licensee's control after 22:00.
- Public access to the rear beer garden shall not be permitted after 22.00 The rear gate shall be locked at 21:00 and alarm set to back door.
- Doors and windows (save for entrance and exit purposes) shall be kept shut when amplified musical entertainment is taking place inside the Premises after 22.00.
- No regulated entertainment shall take place until Environmental Health has approved the details submitted.
- All approved details shall be maintained and be in place during all times of regulated entertainment.
- A noise limiting device, details of which have been submitted to and approved by the Environmental Health section of the Council, is fitted to the amplified systems, set at a level to be agreed with Environmental Health Section and used at all times when regulated entertainment taking place.

The meeting closed at 11.59 am

Chairman of the Panel