

LICENSING SUB-COMMITTEE

Minutes of the proceedings at a virtual meeting of the Licensing Sub-Committee held on Friday, 9 April 2021, at 10.00 a.m.

Present

Councillors

Kevin Holmes

Andrew Jarvis

David Webster

Apologies for absence were received from Councillors Helen Ladhams.

Officers

Sean Hall

Principal Specialist (Health & Environment)

Courage

Legal, Governance and Democracy Specialist

Aiguobasinmwin

LS/39

CHAIRMAN'S ANNOUNCEMENT

Note – Due to technical difficulties, the hearing was adjourned from 10.00 am until 10.17 am.

Following confirmation that the live stream of the meeting had commenced, the Legal, Governance and Democracy Specialist welcomed everyone to the virtual meeting of South Lakeland District Council's Licensing Sub-Committee.

The Legal, Governance and Democracy Specialist then invited Members of the Committee to introduce themselves, to advise whether they were taking part by video and/or audio and to confirm that they were able to see (where practicable) and hear all Members participating in the meeting. All Members present, having indicated that this was the case, the Legal, Governance and Democracy Specialist then invited the public participants, some who had been dialled into the meeting whilst others had took part in the meeting using Microsoft Teams, to introduce themselves and confirm that they were able to hear and/or see the proceedings. He then referred to officers present at the meeting who would introduce themselves when asked to address the meeting.

LS/40

ELECTION OF CHAIRMAN

RESOLVED – That Councillor Webster be elected Chairman for the meeting.

LS/41

APOLOGIES AND RECONSTITUTION OF MEMBERSHIP

Councillor Helen Ladhams having tendered an apology for absence, Councillor Andrew Jarvis, as substitute Member, took her place on the Sub-Committee.

LS/42

DECLARATIONS OF INTEREST

RESOLVED – That it be noted that no declarations of interest were raised.

LS/43

LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

RESOLVED – That there are no excluded items on the agenda.

LS/44 PROCEDURE FOR MEETING

RESOLVED – The Chairman read out the procedure for the meeting.

LS/45 LICENSING ACT 2003 - APPLICATION FOR THE GRANT OF A VARIATION TO AN EXISTING PREMISES LICENCE

The Sub-Committee informed all parties of the late representations that had been submitted which had been distributed prior to the meeting. All parties confirmed receipt and were given additional time to consider the late representations.

The Licensing Sub-Committee reconvened at 10.42 am. The Principal Specialist (Health and Environment) presented the application to vary an existing premises licence made by Lake District Leisure Pursuits Limited in respect of Fallbarrow Holiday Park, Rayrigg Road, Bowness on Windermere, LA23 3DL. That amongst others, the applicant sought to vary their hours of trading. He stated that the applicant had also submitted a Noise Management Plan (NMP) and Noise Assessment Report to the Environmental Protection Team had already been approved by the Environmental Protection Team.

The Principal Specialist (Health and Environment) stated that 14 representations had been received from local members of the public living in close proximity to the site. He explained that the representations were concerned that the possible effect of granting the licence would undermine the licensing objectives of 'Prevention of Public Nuisance', as a result of increased noise emissions from the site, and 'Prevention of Crime and Disorder' resulting from an increase in antisocial or drunken behaviour. Copies of the representations could be found at Appendix 4 of the report.

The Principal Specialist (Health and Environment) responded to questions from Members.

Frances Musetti spoke, on behalf of herself and her family, as well as her in-laws and another local young family in the area. She stated that they objected to the application principally because it would be a cause of public nuisance. She explained that the area surrounding the site was a quiet residential area and that it would be inappropriate to encourage late-night drinking. Such loud regular activity would stop people from being able to properly spend time with their families in their own homes. Further, there would be a lot of extra traffic. She explained that pubs and clubs in Bowness filled up quickly and this summer in particular, as a result of the pandemic quarantine, was expected to be very busy. Hence, people would move up to Fallbarrow once Bowness had reached capacity. She stated that she walked her dog at night and recalled that she had had to cross the road on several occasions due to brawls and other occurrences caused by excessive drinking. Increasing the hours of consumption would cause a significant nuisance and disturbance. Ms Musetti stated that the noise report submitted by the applicant did not cover the issue in its totality, by ignoring factors such as the impact of wind. She stated that excessive drinking also had the potential to cause more accidents and possible fatalities, which she claimed had happened in the past. She concluded her representation by stating that encouraging more drinking did not seem like a reasonable thing to do.

Frances Musetti responded to questions from Members. She was asked whether there had been any occurrence of noise and disturbance where she felt the need to call the police, to which she stated that while she had not called the police, she did not enjoy the experience of these occurrences.

Phil Heatley was invited to speak on behalf of himself and his wife. His primary concern was that of noise disturbance. With regard to the noise report, he stated that 85 decibels was classed as dangerous and that he was not happy with the prospect of noise being played at this level. He stated that Fallbarrow Holiday Park had held several outdoor events in 2019 which had caused horrendous noise disruption. He stated that plenty of establishments in Bowness held such events indoors and he did not comprehend why this applicant insisted on holding outdoor events. He concluded his representation by stating that he did not believe that the issue of noise had been addressed correctly and that he was concerned that it would not be policed correctly either.

At 11.16 am after the representations by Frances Musetti and Phil Heatley, Frances Musetti informed the Sub-Committee and other participants using the chat function that she and Mr Heatley needed to leave due to other commitments.

Jonathan Smith, the applicant's legal representative, was invited to speak. He clarified that the variations to which there had been no objections were (1) internal alterations to the boat house, (2) the requirement for security, (3) the requirement for CCTV, (4) the requirement for a fire risk assessment, and (5) the requirement to protect children from harm. Mr Smith explained in depth the changes to the times of licensable activity which could be found on pages 11 – 19 on the agenda. He explained that due to the circumstances arising from the Coronavirus pandemic, caravan parks were looking to ensure that they were able to use outdoor areas as there was a reduction in capacity for indoor areas and wanted their guests to feel more comfortable. Mr Smith stated that the 2012 Live Music Act permitted various live entertainment between the hours of 11am and 8pm to be carried out without a licence, however the applicant needed permission for the showing of films for their 'Movies under the Stars' entertainment section. Mr Smith explained that the Acoustic Report had simulated music events in three points across the site. He further stated that staff were trained to use handheld noise monitor devices which they would randomly be using in the identified areas across the site to ensure the sound levels did not exceed 80 decibels. He added that a Noise Complaint Log would be retained for 12 months and that nearby residents were to be provided with a telephone number as well as a community email address which could be used to contact the park. Mr Smith concluded his representation by stating that there had been no objections to the application received by police or other relevant authorities.

Jonathan Smith responded to questions from Members. Pete Stedman clarified that artists hired to perform would be contractually bound to adhere to the noise regulations. He further added that 'Movies under the Stars' was a touring event which included a sound technician. He highlighted that the 80 decibel limit was not a target, but rather a maximum level that could not be breached. Mr Smith highlighted that not all visitors to the park wanted to hear the entertainment, so there was good reason to self-regulate besides the licence conditions.

Jonathan Smith gave his closing statement, in which he stated that the application could be granted with the conditions specified in the report and that he believed that they would be balanced with the needs of the business as well as the local residents. He highlighted that police had not provided any concerns and that there was an agreed Noise Management Plan and Noise Assessment Report already in place which the Environmental Protection Team were happy with.

Note – The Licensing Sub-Committee held deliberations. At 12.06 pm the meeting was adjourned. The meeting reconvened at 12.46 pm.

Note – A One Minute Silence was held to honour the death of the Duke of Edinburgh.

RESOLVED – That the application be granted subject to the mandatory conditions, the adherence to the submitted and approved Noise Management Plan and Noise Assessment Report dated 08 April 2021, the condition of operating CCTV with a minimum retention period of 28 days and that sale of alcohol in the outdoor areas of the premises including the boathouse and other areas identified by the plan submitted be limited to 23:00 hours.

A written reasons for decision was sent to the applicant and relevant people that made representations.

All parties were informed of their right to appeal against the decision to Magistrates' Court within 21 days of the decision in accordance with s181 and Schedule 5 of the Licensing Act 2003.

The meeting ended at 12.55 p.m.