

LICENSING SUB-COMMITTEE

Minutes of the proceedings at a meeting of the Licensing Sub-Committee held in the District Council Chamber - South Lakeland House, on Friday, 14 June 2019, at 2.30 p.m.

Present**Councillors**

Kevin Holmes

Dave Khan

Helen Ladhams

Officers

Una Bell

Case Management Team Leader

Linda Fisher

Legal, Governance and Democracy Interim Lead Specialist

Adam Moffatt

Case Management Officer

Karen Partington

Licensing Officer

Shaun Senior

Environmental Health Officer

Josie Smith

Legal, Governance and Democracy Specialist

LS/1 ELECTION OF CHAIRMAN

RESOLVED – That Councillor Helen Ladhams be elected Chairman for the meeting.

LS/2 APOLOGIES AND RECONSTITUTION OF MEMBERSHIP

There were no apologies and there were no changes in the membership of the Sub-Committee and, therefore, no reconstitution was necessary.

LS/3 DECLARATIONS OF INTEREST

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

LS/4 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

RESOLVED – That it be noted that there are no excluded items on the agenda.

LS/5 INTRODUCTIONS

The Chairman made introductions and read out the procedure for the meeting.

LS/6 GRANT OF A PREMISES LICENCE - LINTHWAITE HOUSE HOTEL, CROOK ROAD, WINDERMERE (CTTEE REF: L01-19/20)

Note - The Licensing Officer informed the Sub-Committee that additional information in respect of the application had been submitted. The additional information was circulated to the Sub-Committee, the Applicant and interested parties in attendance and in order to give sufficient time to consider its contents the meeting was adjourned at 2:34 p.m. for a period of 30 minutes.

The meeting was reconvened at 3:04 p.m. when the same Sub-Committee Members were present.

The Licensing Officer presented a report which requested consideration of an application for a premises licence in respect of Linthwaite House Hotel, Crook Road, Windermere, in light of representations which had been submitted by interested parties.

The Environmental Health Officer addressed the Sub-Committee and outlined his representation which had been included within the late information circulated. He referred to the noise management plan, submitted by the applicant, and stated that in consideration of the noise management plan, in conjunction with a recent site visit and discussion with the General Manager of Linthwaite House Hotel, he had no concerns with the submitted noise management plan and concluded that it demonstrated an adequate noise management intention.

The Licensing Officer responded to questions raised by Sub-Committee Members and stated that it was incredibly common for a premises to hold a 24 hour licence but that it was not necessary to operate these hours. Furthermore, in response to a question from an interested party, the Licensing Officer clarified that it was standard practice for a premises application to be submitted prior to the submission of a planning application and the Environmental Health Officer confirmed that South Lakeland District Council's Environmental Protection Department would monitor the premises and its compliance with any recommended conditions.

Lorna Johnson, General Manager of The Oaks Country Estate, addressed the Sub-Committee on behalf of Russell Adams. She informed the Sub-Committee that The Oaks Country Estate had no objection regarding the use of the building, but that they wished to propose a middle ground on the end times of "noise-generated activities." She explained that the proposed building neighboured the boundary of The Oaks Country Estate's land and that they had concerns over potential noise disruption. Ms Johnson then cited her extensive experience in organising and managing wedding events and informed the Sub-Committee that in her experience, wedding parties would create excessive noise regardless of the size of the party and could prove difficult to manage, particularly where alcohol was involved. Furthermore, she went on to suggest that there could be a reasonable time agreed at which wedding parties would move back up to the hotel and continue their celebrations, which would mean that noise disruption would be limited and controlled. Ms Johnson stated that this would be greatly appreciated by The Oaks Country Estate as it would prevent noise disruption to any guests staying on their properties. In concluding her address, Ms Johnson reaffirmed The Oaks Country Estate's support of the use of building and wished Linthwaite House Hotel good luck.

Dianne Hewitt, local resident, addressed the Sub-Committee. She began by informing the Committee that her home, Windy Hall, was situated directly opposite Linthwaite House Hotel and as a result she had, over the years, seen the development of the hotel from a seasonal hotel to Linthwaite House Hotel as it was today. She informed the Committee that as research scientists, she and her husband had made their land home to wildlife, as well as other rare animals and that their gardens had been internationally recognised. Mrs Hewitt then described to the Committee the impact of the development of the hotel on the tranquillity of Windy Hall and she referred to noise issues with hot tubs and rowdy guests under the previous owners. Mrs Hewitt then informed the Committee that in the three years since the new ownership of the Linthwaite House Hotel there had been six managers and she felt that the relationship, along with any assurances from previous managers over noise issues, had been lost. She moved on to inform the Sub-Committee that since building works had commenced, she had experienced several issues with noise and other disruptive side effects of building work which included, but was not limited to,

noise from staff, contractors and air conditioning units and despite the intervention of South Lakeland District Council's Environmental Protection Department there was still noise disruption. Mrs Hewitt went on to inform Members that the attitude of Linthwaite House Hotel had been dismissive towards the complaints and that there had since been more air conditioning units fitted, which caused further noise disruption. She then went on to explain that since the commencement of the works within the ancillary building over a year ago, the noise had been disruptive every day and the smell of cigarette smoke from staff had added to the issue and again the hotel did not act on assurances given to Mrs Hewitt after a complaint had been made about the build-up of disruption. In concluding her address, Mrs Hewitt advised the Sub-Committee she was sceptical of Linthwaite House Hotel's compliance in the future and stated that life on a day to day basis was difficult in what had been a tranquil area in an internationally recognised garden, referred to many as a paradise.

The Applicant, Karen Irving, addressed the Sub-Committee. She explained that she had been General Manager of Linthwaite House Hotel since November 2018 and since this time business at the hotel had not been as buoyant as expected, and that the addition of wedding packages to the hotel's repertoire would support the business. She made reference to the concerns regarding noise and stated that it was the intention of the hotel to work with neighbours and local residents to ensure that there was as little disruption as possible. The applicant continued by informing the Sub-Committee that the hotel had limitations regarding the type and size of weddings it would host and that outdoor music would be limited to afternoon ceremonies and this would most likely be a harpist or guitarist and would be unamplified. The size of wedding parties would likely be no more than 50 guests, and that wedding packages would be exclusive, meaning that all 36 rooms within the hotel would have to be booked as part of the wedding package. She also informed the Committee that due to the higher cost of weekend weddings, it was more likely that weddings would fall on weekdays. The applicant also highlighted to the Sub-Committee that loud and late night music would not fit in with the image of Linthwaite House Hotel, as a more exclusive wedding venue. The applicant, in concluding her address informed the Sub-Committee and interested parties that she could not account for the approach of previous manager to complaints and noise related issues. However, she was committed to her role and had no plans to leave her current job and abandon any promises made to local residents over noise disruption. In addition she wished to work with neighbours and local residents to limit the amount of disruption to their lives and it was in the interest of the hotel to work with them to avoid any potential conflict and to build the hotel's reputation.

In response to questions from Members and interested parties, the applicant clarified the location of various buildings on the site map and informed the Sub-Committee that there was no intention for live bands to perform amplified music outdoors, however, there had been a necessity to apply for the licence application in order for any live music to be performed. She outlined the number of weddings which were anticipated, clarified the provision of late night refreshments and explained that there was no intention to have music after midnight and in response to complaints from Mrs Hewitt, explained that the relocation of the air conditioning units, from the road side to the hotel side, would prevent further noise disruption. Furthermore, she informed Members that there was no intention to have marquee weddings on the premises and confirmed that the laundry area would be relocated, in order to prevent noise disruption to local residents, and that she would be happy to consider the relocation of the staff smoking area.

No questions were asked of Officers.

14.06.2019

Licensing Sub-Committee

In her closing statement, the Licensing Officer reaffirmed the request for Sub-Committee to consider the representations which had been made and determine whether or not to grant the applicant for a premises licence with or without conditions.

In her closing statement, the applicant stated that she genuinely wanted to work with the neighbours and appreciated their concerns and that it was in the interest of Linthwaite House Hotel to be compliant.

The Sub-Committee, supported by the Interim Lead Legal, Governance and Democracy Specialist together with the Legal, Governance and Democracy Specialist then withdrew to consider the application.

Meeting was reconvened at 16:45 p.m. and the Chair of the Sub-Committee asked the Interim Lead Legal, Governance and Democracy Specialist to communicate the Sub-Committee's decision.

The Interim Lead Legal, Governance and Democracy Specialist stated that the Council's Sub-Committee had considered the Legislation Licensing Act 2003 Regulations and guidance, the Council's Licensing Policy and in particular Para 5.6 which dealt with matters to be taken into account with regard to the prevention of public nuisance.

The Sub-Committee took into account the information contained in the Guidance from paragraphs 2.15 to 2.20 regarding nuisance.

They also considered the case of Daniel Thwaites plc v Wirral Borough Magistrates' Court and went on to look at what actual evidence was available to show the prevention of public nuisance objective was being undermined. The Sub-Committee accepted that although this was an application for a new licence and as such no actual evidence was in existence, it was common sense that if regulated entertainment took place, that noise nuisance could occur.

The Sub-Committee concluded that there was insufficient evidence of public nuisance to warrant not granting the licence. They therefore went on to consider what provisions were currently contained in the application and whether anything else was needed to ensure the Licensing Objective was not undermined.

In reaching the decision the Sub Committee had regard to the following facts:-

- The potential for noise disturbance arising out of the grant of a licence.
- That the Environmental Health Officer has no concerns with the submitted noise management plan as this demonstrates an adequate noise management intention.
- The applicant's comments in relation to future intentions for the operation of the site.
- The applicants confirmation that music would be likely to cease at 00.00am

We have considered the application and what has been said very carefully and

RESOLVED – That the application be granted as applied for but with the following amendments outlined below:-

Live Music	On/Off	Monday to Sunday	12.00 to 00.00
Recorded Music	On /Off	Monday to Sunday	07.00 to 00.00

The licence to be subject to the standard mandatory conditions and subject to the following conditions:-

- The applicant will undertake appropriate soundproofing to the fabric of the building to the satisfaction of the Environmental Protection Department
- The applicant will supply a noise management plan to the Environmental Protection Department which requires the approval in writing of the Environmental Protection Dept.
- All windows and doors to be kept closed when amplified or live music takes place.
- All music shall be inaudible at the nearest noise sensitive property (10 db below the measured representative background sound levels) the reading to be from a central point and agreed in writing with the Council and as agreed in the Noise Management Plan.
- The installation of a noise limiter and monitoring equipment with the limit set to a level to be approved in writing by the Environmental Protection Dept.
- No amplified music shall be performed outside unless a noise management plan has been submitted to and agreed in writing with the Council's Environmental Health Officer. The plan, once agreed shall be adhered to on occasions where amplified music is to be played outside.
- All waste collections, deliveries and any movement of bins and rubbish should take place between the hours of 9.00am and 6.00pm.

As put forward by the applicant in Sandy Browns report:

- The noise egress from the kitchen freezer and chiller condensers to the two worst affected nearby premises is addressed, either by installing a solid screen behind the condensers or by housing them in acoustic enclosures.
- The noise egress from the laundry room through the external air supply vent is addressed by fitting it with an acoustic louvre. (The Sub Committee noted that the condensers may be relocated)

The meeting ended at 4.50 p.m.