

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (A) HELD IN REMOTELY - VIA MICROSOFT TEAMS ON WEDNESDAY, 25 AUGUST 2021 AT 10:00

Present

Councillor DRW Lewis – Chairperson

TH Beedle                      MJ Kearn

Officers:

Julie Ellams                      Democratic Services Officer - Committees  
Kirsty Evans                      Senior Licensing Officer  
Andrea Lee                        Senior Lawyer

19.    DECLARATIONS OF INTEREST

The Chairperson declared a personal interest in Agenda Item 3, in that he knew both Mark Holmes and Gavin Thomas, but only in that he had dealings with them previously, in his capacity as a St. Brides Minor Community Councillor.

20.    LICENSING ACT 2003: SECTION 105 TEMPORARY EVENT NOTICE REAR CAR PARK OF K2 GYM, MAIN AVENUE, BRACKLA INDUSTRIAL ESTATE, BRIDGEND

The Senior Licensing Officer presented a report, to ask the Sub-Committee to consider an Objection Notice submitted by the Environmental Health Department of the Council, in respect of a Temporary Event Notice served on the licensing authority.

She confirmed, that on 13 August 2021, the licensing authority received a Temporary Event Notice (“TEN”) from Mark Holmes (“the premises user”) in respect of the Rear Car Park of K2 Gymnasium, Main Avenue, Brackla Industrial Estate, Bridgend. A copy of the TEN was detailed at Appendix A to the report.

The premises does not have the benefit of a Premises Licence and the event was for ‘Roots Shack’ to take place on 28 August 2021 between 1200 to 2300 hours.

The maximum number of people at any one time to be present at the event is 250.

The Senior Licensing Officer advised, that the event would comprise of a stage, bar and street food. The applicant confirmed that in terms of holding the event, the organisers would ensure that all current Government Covid guidelines would be adhered to.

A copy of the TEN had served upon South Wales Police and the Council’s Environmental Health Department. The Environmental Health Department had submitted an Objection Notice in relation to the TEN to the licensing authority. A copy of the Objection Notice has also been served on the premises user and was attached at Appendix B to the report.

The licensing authority is aware that it is possible for the premises user and Environmental Health Department to enter into a period of discussion regarding the objections raised and that Section 106 of the Act enables the modification of the TEN with the agreement of all parties. Members are advised that the timescales governing TENs are relatively short and that, at the time this report was dispatched, the licensing authority had not been notified that any party had reached agreement. This was confirmed at the meeting

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The Objection Notice was therefore being treated as not having been withdrawn.

Sections 2 and 7 of the Home Office Guidance applied to this Notice, as well as Section 13 of the Council's Statement of Licensing Policy.

The Senior Licensing Officer therefore confirmed, that the hearing must therefore consider the points raised in the Objection Notice and make a determination on the TEN. Having considered the Objection Notice, the Sub-Committee had the options listed in paragraph 4.7 of the report.

The Chairperson then invited the Officer from the Environmental Health Department, Shared Regulatory Services (SRS), to outline the reasons for the Objection Notice in respect of the application for the TEN, that had been submitted by the applicant.

She explained that the applicant has had 3 consecutive events for the weekends of 31 July, 7 and 14 August 2021, following which the Environmental Health Department had received a total of 5 separate complaints. Complaints were received after the 1st event, but the second TEN's had already been given the go ahead as the applicant had submitted it before the 1st event had taken place. An Officer from SRS contacted the applicant after the first event to advise that the Department had received complaints about the bass noise and that it would be recommended that the 2nd event is finished by 11.00pm, due to this. He told the Officer that the 1st event was live music and that the 2nd event would be recorded DJ music, so the latter would be less of a problem. The applicant agreed to monitor the noise levels at residential properties. However, further complaints were also received after the 2nd event, so the Environmental Health Department agreed with the applicant to amend the 3rd event to a 11.00pm finish, whereby Officers would go out and monitor the noise levels (at this event).

Complaints were received on 14 August 2021, whilst an Officer was on their way to monitor the event. The representative from Environmental Health explained that she was also the Duty Officer on call for that weekend and she received two calls from the operative who receives the initial out of hours calls. One call was received at 18.47 and she received the other call at 20.26. The bass level was monitored on the 14 August and found to be intrusive inside and outside the complainant's property. The Officer contacted Mr Holmes to request that the volume of the bass is lowered. He did this but it made no difference in terms of noise levels. Mr Holmes then came and met the Officer at the complainant's property and heard the bass volume himself. He then said that he would make further volume adjustments at the event. The Officer then had to leave to go on another call, but called back to K2 gym at 22.12, accompanied by herself to meet someone called Gavin as he wanted guidance as to what level he could play the music at. The level was then adjusted further where it was deemed to be acceptable at the complainant's premises and the corresponding measurement that was being taken at the event itself was told to Gavin. However, Gavin advised they would not be able to hold the event at this lower level. Mitigation was then discussed on site, but the applicant submitted a 4th TEN without any details of how they were going to control the bass levels. Consequently, SRS then objected against the TEN. A further email was then received from the applicant on 19 August, with some suggested mitigation that they were considering and more details were requested by SRS, however no further contact had been received since that time, the Environmental Health Officer added.

Mr Holmes advised that the TEN application was submitted prior to the event in question and that the above discussions so referred to that took place with Officers from the Environmental Health Department, came after the TEN had been submitted. He had since however, emailed the Environmental Health Department, with some possible options to be explored with a view to reducing bass levels to what would be considered a 'reasonable' level.

The Environmental Officer acknowledged this, but she added that Officers had still subsequently asked for more details regarding the recommended mitigation, but none were then forthcoming from the applicant(s).

Mr Holmes stated this was the case, but he added that he hadn't replied as he thought that these would be discussed and agreed upon between all the relevant parties, at today's meeting.

Mr Gavin Thomas asked the Officer that when she had taken noise levels at a previous TEN event at the 'Shack at around 22:00,' in what manner was her colleague monitoring noise levels at the property of the complainant.

The Environmental Health Officer confirmed that that her colleague had positioned herself in the garden of the property and following then the applicant turning down the bass volume to a reasonable level which was considered acceptable, Officers thought that if this was the level to be used at future events, then this would be acceptable and not give rise to any complaints from properties near to the location where the event was taking place.

Mr Thomas confirmed to Members, that the noise levels had not been recorded at the complainant's property with a noise meter, which would give a very accurate reading and would confirm whether or not the bass levels being heard there from the event were too loud or conversely, at an acceptable level.

The Environmental Health Officer acknowledged this, but advised that the bass levels could be heard at this property and they were classed by Officers to be at a sufficient enough level to cause noise nuisance.

Mr Thomas confirmed that in an email received from the Shared Regulatory Service previously, the noise levels reported at K2 Gym during the last TEN function had been 65 – 67 db. He asked with this in mind and being considered as too high, what would be an acceptable level at the complainants' property.

The Environmental Health Officer confirmed that this would be in the region of 35 – 36 db. She added that appropriate levels considered to be acceptable were previously given to the applicants to monitor at the venue where future such events would take place.

Mr Thomas advised that the last thing he wanted, was for people ie residents nearby, to be disturbed by noise as a result of any future events taking place.

The Environmental Health Officer felt that it was worth mentioning to Members, that noise from a Bass instrument did tend to travel quite far. Therefore, the only way it could be set at a higher level than that recommended above, was if further mitigation was put in place at the venue where the function was taking place. Ideas on how to achieve this, had previously been discussed with the applicant(s) she added and if these were followed up, then Officers would carry out further checks/tests at the site of both the function area and the complainants property. The applicant(s) had not to date responded to this communication however.

Mr Holmes confirmed that neither himself nor Mr Thomas had responded to this, as they had been under the impression that this issue together with any others would be debated and resolved at today's Committee meeting.

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The Chairperson advised that this was not the case and issues such as the above should have been discussed outside of the meeting, with a view to coming to an amicable solution for both parties, prior to any future TEN being applied for by the applicant(s).

A Member concurred with this and added, that the meeting today should not have been proceeded with if as it seemed from debate, the event so applied for and objected to by the Shared Regulatory Services, was going to be cancelled with the TEN therefore being withdrawn.

The Legal Officer therefore asked the applicants, if the TEN so applied for with regards to the function scheduled for on 28 August 2021, was now going to go ahead.

Mr Holmes confirmed that would now unlikely be the case, in view how the meeting had progressed today, but he would be putting in applications for further TEN's in the future.

The Legal Officer replied that while that was in his right, there was little point in today's meeting proceeding further, if the event so applied for was not going to be pursued further.

Mr Holmes agreed but added that he would wish to apply for further TEN's during the months of September and October.

The Legal Officer replied that these would be subject to further meetings however, on the basis that objections were received to such further applications.

The Environmental Health Officer stated that as long as adequate mitigation was put in place to reduce the noise levels as described above and discussed previously with the applicant, then the Shared Regulatory Service (SRS) would in all probability, have no objection to future events. However, if mitigation was not put in place then SRS would continue to object to the TENS and if necessary, serve the applicants with an Abatement Notice.

The Chairperson asked if all the previous events relating to TENS had taken place at the same venue and was this likely to be the case in the future.

Mr Howells confirmed that this was/would be the case.

The Environmental Health Officer further added, that structures such as Hay bails and/or Sound Absorbers would block off some of the sound levels from future events. If confirmation was received from the applicant that these would be put in place for, then SRS staff could inspect these in advance of the event and ascertain if these are sufficient to reduce noise levels so that they are no longer deemed a nuisance to residents who live in the vicinity.

In view of the above, Mr Holmes and Mr Thomas agreed to withdraw the application for the TEN for the proposed event on 28 August 2021.

**RESOLVED:** That Members noted that the application subject of the report, was withdrawn.

The meeting closed at 11:10