

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING SUB-COMMITTEE A - 22 AUGUST 2016

SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE MEETING – 22
SEPTEMBER 2016

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Simon Inchbald (Chairman)
Cllr Libby Piper

Cllr Bob Upton

6. ELECTION OF CHAIRMAN (Agenda item 1.)

Cllr Simon Inchbald was appointed Chairman for this meeting of Licensing Sub-Committee A. Under delegated authority, the Head of Policy and Governance appointed Councillor Bob Upton to sit on the Committee for the current vacant position.

7. MINUTES (Agenda item 2.)

The minutes of the meeting of Licensing Sub-Committee A which took place on 4 July were confirmed and signed.

8. DISCLOSURE OF INTERESTS (Agenda item 3.)

Councillor Simon Inchbald declared a non-pecuniary interest in the application as he was a former trustee of the Meath School which would be receiving proceeds from the event.

PART I - RECOMMENDATIONS TO THE COMMITTEE

There were no matters falling within this category.

PART II - MATTERS OF REPORT

Background Papers

The background papers relating to the following report items in Part II are as specified in the agenda for the Committee.

9. TEMPORARY EVENT NOTICE WITH ENVIRONMENTAL HEALTH OBJECTION
AT CORRETTO, 10 QUEEN STREET, GODALMING (Agenda item 4.)

The Chairman introduced the Sub-Committee and officers present and explained the purpose of the hearing. Environmental Health, as Responsible Authority, was represented by Anne-Marie Wade and Elizabeth Bance who were both Environmental Health Officers. Corretto was represented by the General Manager Natalie Hancock and the Designated Premises Supervisor (DPS) Ben Westhead.

The Licensing Manager introduced the application and outlined the matter that the Sub-Committee was being asked to decide.

The applicant then gave a brief explanation of the proposed event under the Temporary Event Notice. The application sought to have regulated entertainment, late night refreshment and sale of alcohol for consumption on the premises only, from 2100 on the 27 August 2016 until 0200 hours on the 28 August 2016, for a Live DJ, soul & funk charity music event. The DPS confirmed that he was willing to compromise on the timing but did want to be able to play music beyond the current Premises Licence cut off of 2300.

Environmental Health then made their representation. Environmental Health were objecting to the application on the following ground: the Prevention of Public Nuisance.

The Sub-Committee was advised that since November 2015 there had been a number of complaints received from neighbouring properties regarding loud music coming from the premises both during and occasional beyond Correttos licensable hours. Noise recording equipment had not been installed but residents had been asked to complete logs and the Environmental Health Officers had attended to substantiate the claims. Officers had attended on a number of occasions and on two of these times found that recorded music was still being played past 11pm. Furthermore, music could be heard both across the road, and for the person living above the premises it was at such a level that the floors were vibrating and the music could be heard above the television or normal conversation.

Officers had spoken to the person who marketed the property and it was understood that the floors had been insulated, albeit possibly not very well but that was the responsibility of the owner and not the bar. And, at the time of purchase, it was thought that it was just a tapas restaurant rather than a bar, which would create more noise.

The Sub-Committee was advised that as a result of investigations Environmental Health established that a statutory nuisance was already in existence in respect of the noise heard in the property above the premises, and an abatement notice was served on Friday 5 August 2016 under Environmental Protection Act 1990 section 79(1) which required noise nuisance from loud amplified music to be abated. However, since the notice had been served, further complaints had been received from the owner of the flat above the premises and these were recorded in the log that they had provided. This also showed that music was being played beyond the licensable hours.

The Sub-Committee asked questions of the applicant concerning what lengths they were going to for reducing the noise emanating from the premises and for this event what steps would be taken to reduce the noise. The DPS advised that they were taking steps to reduce the noise. They had spoken with the owner of the property above the premises and it was evident that although the noise downstairs did not sound loud, it was being carried through the floor boards and joists and could be heard loudly in the flat especially when there was a heavy base which had, on

occasion, caused the floor boards to vibrate. They had organised for a sound engineer to come in two weeks time and explore ways they could have the speakers in a different position as they were currently hung to the ceiling which could be the problem. They suggested that they could hire floor based speakers for the event and they had started to monitor the decibel levels. The DPS also suggested that some of the problem was inherent because there had not been a bar in that area of the road before and the noise was new to the residents that lived there. They would also be looking to install a sound level meter to set at a level that everyone was happy with.

The Sub-Committee then WITHDREW at 10.40am.

Following the Sub-Committee's deliberation the meeting RESUMED at 11.15am. The Council's Solicitor had been asked to advise the Sub-Committee during their deliberation on the wording of their decision:

The Sub-Committee carefully considered an application for a Temporary Event Notice (TEN) given by the 'premises user' for Corretto where an objection had been made by Waverley Borough Environmental Health Services on the grounds of Prevention of Public Nuisance.

The Sub-Committee heard sufficient substantiated evidence submitted by Environmental Health as Responsible Authority regarding complaints and incidents since November 2015 that conflicted with the Licensing Objective relating to the Prevention of Public Nuisance.

The Sub-Committee considered it appropriate and necessary for the promotion of the prevention of public nuisance objective for the reasons given below to reject the application:

- The Sub-Committee considered that from the information submitted from Environmental Health regarding previous complaints and incidents at the premises, the DPS had failed to uphold the Licensing Objective of prevention of public nuisance and the DPS had not convinced the Sub-Committee there was an ability at this time to uphold it in the future. With the background of the events outlined by Environmental Health and the nature of the planned event, particularly because the music would be base dependent, the Sub-Committee did not have confidence in the applicant to manage the event and was satisfied that the Prevention of Nuisance Licensing Objective would be undermined if the event were to take place.
- The Sub-Committee was concerned that since the noise abatement notice had been served there continued to be complaints regarding noise emanating from the property and there was evidence that this was being played outside of the permitted licensing hours. There had not been satisfactory compliance to date and the Sub-Committee was not convinced that the suggested mitigation methods proposed by the DPS would satisfactorily address the issues in time for the event taking place on 27/28 August 2016.

- The proposed event was not a ticketed event and the Sub-Committee were not convinced there would be sufficient control in place to manage the music emanating from the premises.

10. EXCLUSION OF PRESS AND PUBLIC (Agenda item 5.)

11. LEGAL ADVICE (Agenda item 6.)

The meeting commenced at 10am and concluded at 11.20am

Chairman