



Minutes of the Licensing Sub-Committee

28 March 2019

-: Present :-

Councillors Pentney, Stocks and Thomas (J)

46. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

47. Minutes

The Minutes of the meeting of the Sub-Committee held on 30 January, 7 February and 14 February 2019 were confirmed as a correct record and signed by the Chairman.

48. Churston Court Hotel, Churston Ferrers, Brixham TQ5 0JE

Members considered a report on an application for a Variation to a Premises Licence in respect of Churston Court Hotel, Churston Ferrers, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation in respect of the Licensing Objective 'Public Safety'.	4 March 2019
Public Protection	Representation objecting to the application on the grounds of the Licensing Objectives 'Public Safety' and 'The Prevention of Public Nuisance'.	7 March 2019
Member of the Public	Representation objecting to the application on the ground of the Licensing Objective 'The Prevention of Public Nuisance'.	25 February 2019
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	4 March 2019
Member of the Public	Representation objecting to the application on the grounds of 'The Prevention of Public Nuisance'.	23 February 2019

Member of the Public	Representation objecting to the application on the grounds of 'The Prevention of Public Nuisance'.	Undated
Member of the Public	Representation objecting to the application on the grounds of 'The Prevention of Public Nuisance'.	17 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	4 March 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	5 March 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	5 March 2019
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	5 March 2019
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	18 February 2019
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Undated
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety and 'The Prevention of Public Nuisance'.	22 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	22 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	18 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	19 February 2019

Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Undated
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	21 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	Undated
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	13 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety', 'The Prevention of Public Nuisance' and 'The Prevention of Crime and Disorder'.	27 February 2019
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	1 March 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	Undated
Member of the Public	Representation objecting to the application on the grounds of 'The Prevention of Public Nuisance'.	7 March 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	28 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	21 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The Prevention of Public Nuisance'.	18 February 2019
Member of the Public	Representation objecting to the application on the grounds of 'Public Safety' and 'The	Undated

	Prevention of Public Nuisance’.	
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	18 February 2019
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	18 February 2019
Member of the Public	Representation objecting to the application on the ground of ‘The Prevention of Public Nuisance’.	Undated
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	4 March 2019
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	18 February 2019
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	Undated
Member of the Public	Representation objecting to the application on the ground of ‘The Prevention of Public Nuisance’.	28 February 2019
Member of the Public	Representation objecting to the application on the ground of ‘The Prevention of Public Nuisance’.	16 February 2019
Member of the Public	Representation objecting to the application on the ground of ‘The Prevention of Public Nuisance’.	28 February 2019
Member of the Public	Representation objecting to the application on the grounds of ‘The Prevention of Public Nuisance’, ‘Public Safety’ and ‘The Protection of Children from Harm’.	18 February 2019
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	21 February 2019
Member of the Public	Representation objecting to the application on the ground of ‘The Prevention of Public	28 February 2019

	Nuisance’.	
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	Undated
Member of the Public	Representation objecting to the application on the grounds of ‘Public Safety’ and ‘The Prevention of Public Nuisance’.	28 February 2019
Member of the Public	Representation in support of the application.	15 March 2019
Member of the Public	Representation in support of the application.	28 February 2019
Member of the Public	Representation in support of the application.	21 February 2019
Member of the Public	Representation in support of the application.	24 February 2019
Member of the Public	Representation in support of the application.	20 February 2019
Member of the Public	Representation in support of the application.	26 February 2019
Member of the Public	Representation in support of the application.	21 February 2019
Member of the Public	Representation in support of the application.	19 February 2019
Member of the Public	Representation in support of the application.	Undated
Member of the Public	Representation in support of the application.	Undated

Additional Information:

The Chairman permitted an extension of time for oral representations and advised that each party would be permitted 15 minutes for their representations. All parties present confirmed 15 minutes would be sufficient time to submit their oral representations. Subsequently the limit was extended to 18 minutes.

During the Hearing additional documents were circulated and a film recording was played.

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined his application and responded to Members questions.
Public Protection Officer	The Public Protection Officer outlined his objection to the application and responded to Members questions.
Police	The Police Representative outlined her objection to the application and responded to Members questions.

Twelve Members of the Public	Twelve members of the public individually outlined their objection to the application and responded to questions when posed by Members.
Three Members of the Public	Three members of the public individually outlined their support for the application and read out a statement on behalf of another member of the public who was unable to attend. The three members of the public also responded to Members questions.

Decision

That the application for a Variation to a Premises Licence in respect of Churston Court Hotel, Churston Ferrers, Brixham shall be granted;

in so far as:

- i) the sale of alcohol shall be permitted both on and off the premises on Sundays from 10am to 11.30pm;
- ii) that the premises opening times shall be increased to permit 10am to 11.30pm on Sundays;
- iii) the showing of films indoors at the premises shall be permitted;
- iv) the performance of unamplified and amplified live music outdoors at the premises shall not be permitted at any time;
- v) the performance of recorded music outdoors at the premises shall not be permitted at any time; and
- vi) the showing of films outdoors at the premises shall not be permitted at any time.

Reasons for Decision

Having carefully considered all the written and oral representations, Members resolved to grant the application in respect of permitting a two hour increase to the sale of alcohol on a Sunday and of equal time to Sunday opening hours, as they had not heard any evidence from any Interested Person or Responsible Authority that either would undermine the Licensing Objectives. Equally members were satisfied that the showing of films indoors, should be permitted for the same reasoning.

Members were however not satisfied that the activities requested to be permitted in the remainder of the application would, if granted on the evidence before them, uphold the promotion of 'The Prevention of Public Nuisance', Licensing Objective and therefore after careful consideration of all options available to them, resolved to refuse this element of the application.

In coming to that decision, Members considered an independent acoustic report that had been undertaken and submitted in part by the Applicant, and whilst the report appeared scientifically comprehensive, Members noted the Public Protection Officers concerns in respect of two issues. Firstly the level of background noise recorded during the test period would have been distorted by a period of adverse weather, and secondly; the decibel level proposed by the acoustic report would not provide the customer experience expected of the proposed type of event, resulting a high likelihood of an increase to the volume particularly when taking into account the level of crowd noise. Members also noted the parameters for the acoustic report only addressed the Strawberry Fayre Music and Beer Festival and did not address the other proposed events that if granted, the Applicant would be permitted to hold. Member did have regard to the Applicants submission that the event covered in the report was to have been the loudest and therefore was sufficient to cover all events, but given the level of concern for a significant number of residents within the direct community and the Public Protection Officer, Members resolved that it was insufficient for the purpose of them being able to make an informed determination to the contrary.

Members considered the footage provided by the Applicant's Associate, but could place limited weight on such a recording, due to the following:

- Lack of impartiality;
- The equipment not being calibrated;
- The use of a sound pressure level measurement rather than a level that is averaged over a period of time
- The un-scientific approach to conducting a sound experiment; and
- The lack of acknowledgement of noise generated by very large groups of people and the impact of this on the noise environment.

It was Members opinion that the Applicant had acknowledged that a public nuisance had previously been generated by events at his premises and as such, had undertaken an acoustic report and recognised the need for a noise management plan, as stated in his application. However the Applicant's Associates, one of which Members noted was financially invested in a previous event, such as Strawberry Fayre, completely failed to accept that a nuisance had been caused, believing it was physically impossible for their event to have generated the level of continuous noise that the significant number of residents had complained of.

Members were concerned by the lack of detail included in the application, the absence of any robust noise management plan or a proposed event management plan for them to consider and therefore could not be reassured that the Applicant had taken sufficient steps to address or mitigate the concerns of the Public Protection Officer or members of the public who had submitted a representation.

Members had regard to the Licensing Statement of Principles in particular paragraph 4.4 which states:

'Section 4 – The Licensing Authority's rationale for issuing Premises Licenses is to:

4.4 *Refuse or limit types of regulated entertainment or impose early closing times where Applicants have not sufficiently demonstrated how they will protect residential properties in close proximity to their Premises, from public nuisance.'*

Whilst Members gave careful consideration to granting the application with a limit placed on the frequency and type of events, the lack of timely and proactive engagement by the Applicant with residents and the Public Protection Officer resulted in Members not being able to determine with reasonable certainty what would, and wouldn't, result in a public nuisance or what would or wouldn't be acceptable to residents as a form of compromise. Notwithstanding that residents would experience noise outbreak in to their homes and gardens from events held in the premises outside areas.

In determining this, Members heard oral evidence from 12 local residents whose evidence they found to be reliable and noted their genuine desire for the premises to flourish but not at the expense of their ability to enjoy their homes. As such, Members saw a clear need for greater community engagement to provide reassurance to these residents before such an application could reasonably be granted which would promote all the Licensing Objectives.

Members carefully considered the intended operation, as outlined in the application and those conditions proposed by the Applicant which were circulated to them on 26 March 2019. Having heard from the Public Protection Officer that these conditions would not go far enough to mitigate a noise nuisance from occurring, Members gave careful consideration to what if any, additional conditions could be added by them to promote 'The Prevention of Public Nuisance', Licensing Objective.

In consideration of this, Members noted the Applicants submission that the proposed events, save for one, were more than likely to take place in the warmer months of the year being May to September, albeit they were applied for over a twelve month period, and therefore by their calculation, this could equate to one event every weekend during that period. Having regard to the Licensing Statement of Principles in particular; Appendix 3 – Supplementary Information on Licensing Objectives:

'Prevention of Public Nuisance'

General consideration

Licensed premises have a significant potential to impact adversely on communities through public nuisance which can arise through their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and businesses from adverse impact arising out of the operation of licensed premises',

Members resolved that whatever conditions they may have determined as appropriate, there would still be a need for thorough consideration of those conditions against all of the events proposed to take place in the premises outside

area and meaningful engagement with residents and the Public Protection Officer before the application could have been granted in totality. To do anything less, would in Members opinion, have been a departure from this Policy and they could not with clear conscious on the evidence before them, determine sufficient reason to do so.

In concluding, Members were greatly concerned by the attitude of the Applicant's Associates and the contempt they appeared to hold for the residents who not only had made representations but also to those who were present at the hearing. Their dismissive attitude to the intrusion, upset and anxiety caused by such events which Members found to have occurred was in Members opinion, quite remarkable .With this in mind and the Applicant not presenting any evidence to suggest that these particular event organisers would not be involved in future events at the premises, caused Members to determine that the reliance of trust they could place in the Applicant was limited and therefore concluded with the continuance of these event organisers involvement, the Licensing Objective 'The Prevention of Public Nuisance' would not be upheld.

Chairman/woman