

Minutes of Review Hearing 10/09/2010

The legal adviser informed all parties that in light of the previous procedural history of the matter, and the fact that it had been remitted to the Council's Licensing Committee following an earlier appeal, it would be a matter for Mr Pyne to advise his client whether or how an appeal might be made.

75. Licensing Act 2003 – Application for the grant of a premises licence – Restaurant 69, 69 Castle Road, Southsea, Portsmouth, PO5 3AY (AI 4)

(TAKE IN REPORT BY THE LICENSING MANAGER)

Mr and Mrs O'Reilly of 71 Castle Road, the applicants, were in attendance.

Mr Roger Pyne (solicitor representing the premises licence holder) and Mrs Sally Jayne Elliot (the designated premises supervisor) were also in attendance.

Mr Mike Thorne of Environmental Health, was in attendance as representative of a responsible authority.

The Deputy Licensing Manager introduced the report and explained that the review had been brought about because of the issue of noise from the live music held at weekends. The bar is surrounded by residents and Mr and Mrs O'Reilly feel the venue is inappropriate for live music.

Mr Pyne reported that an agreement had been reached between Mrs Elliot and Mr and Mrs O'Reilly.

Mr and Mrs O'Reilly made the following points during their representations:

- We live next door to the premises and there are flats above the premises;
- We did want to be in this position but we have complained about the noise over a period of time;
- Environmental Health served a noise abatement notice in July this year;
- This is the end of a journey which has consisted of letters and discussions with the premises licence holder;
- Would request that live and recorded music be removed from the licence and that the use of the garden be conditioned on the licence;
- Our shelves have vibrated from the music played at the premises;
- Understand that it will be 3 weeks before any decision is implemented and we are concerned about the potential of an appeal;
- Understand that Mrs Elliot is leaving soon and so we would agree to the entertainment which has already been booked up to 1st November;
- The venue is completely inappropriate for regulated entertainment;
- We are giving our trust and hope that the situation is well managed;
- Mr Pyne has given us his assurance that he will advise Mrs Elliot in terms of managing the live entertainment;
- Would stress that we are giving a big concession here and are willing to bear the noise and vibration from the regulated entertainment to bring an end to the whole process;
- The regulated entertainment which occurred on 5th September 2010 was not acceptable in terms of noise level, the thumping base could still be heard through the soundproofing, but it was an improvement on previous occasions;
- To prevent further tax payer's money being spent on an appeal and our time, we are prepared to tolerate the noise to bring an end to the matter.

Mr Pyne, representing Mrs Elliot, made the following points during his representations:

- Mrs Elliot will not appeal against the decision, if she is permitted to allow the entertainment which has already been booked up to 1st November to take place;

- Despite any undertakings made today, Mr and Mrs O'Reilly would still have the right to contact Environmental Health;
- Have sympathy with the applicants case;
- As a result of negotiations with Mr and Mrs O'Reilly and the premises licence holder, an agreement has been reached. A copy of the agreement was circulated to all present.
- Mrs Elliot will be leaving the premises on 1 November 2010 and Mrs Salmon, the owner, will bring in a new DPS/operator.

Mr Thorne of Environmental Health agreed to put a note on the file outlining the details of the agreement reached today.

DECISION: the application for the review of a premises licence at Restaurant 69, 69 Castle Road, Southsea, Portsmouth, PO5 3AY by Mr and Mrs O'Reilly, as an interested party, was considered. The committee were pleased that an agreement had been reached between the parties, and that both parties had confirmed to the committee that they will not appeal against the agreement. The committee decided to vary the premises licence as from 1 November 2010 as follows:

1. To delete from the licensable activities the regulated entertainment consisting of the performance of live and the playing of recorded music, and other similar music or dance entertainment.
2. To delete the timings for the performance of live music and recorded music.
3. In the conditions (Annexe 2 page 7):
 - a. Delete the reference to live music (02).
 - b. Provide for the closure of the garden area to customers at all times (04).
 - c. Provide for the closure of entry and exit doors to remain closed when regulated entertainment is provided (other than for entry and exit).
 - d. In the interests of clarity, the significance of the date of 1st November 2010, is that the licensee has booked solo female performers for Sunday evenings until the end of October. Cancellation of those bookings would involve her in the payment of not insubstantial compensation. A solo singer performed on Sunday 5th September 2010 when the level of sound was not unacceptable to the applications for review. In the spirit in which their letters were written the applicants have stated that they will not object to performances by a solo singer with the level of sound obtaining on 5th September aforesaid on Sundays at varying times from late afternoon to early evening and for a wedding reception on 20th September 2010.

In reaching their decision the committee had regard to the promotion of the licensing objectives, the Licensing Act 2003, judgements of the High Court, the Statement of Licensing Policy, statutory guidance issued by the Secretary of State, the Human Rights Act and representations both attached to the reports and heard at the meeting.

The meeting concluded at 12.10pm.

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Signed by the chair of the meeting.