# LICENSING SUB COMMITTEE B

## 26TH JUNE 2018

**PRESENT:** Councillor H.I. Jones (Chair)

**Councillors:** P.M. Edwards, W.T. Evans and J.E. Williams

**Present as representatives of a Responsible Authority:-**

A. J. Rees, Principal Environmental Health Practitioner;
A. Morgan, Environmental Health Practitioner.

**The following Officers were in attendance:**
R. Edgecombe, Legal Services Manager;
A. Rees, Licensing Officer;
E. Jones, Principal Licensing Officer
J. Owen, Democratic Services Officer.

**Chamber, County Hall, Carmarthen – 9:30am - 1:30pm.**

**1. APPOINTMENT OF CHAIR FOR THE MEETING**

**It was UNANIMOUSLY RESOLVED to appoint Councillor H. I. Jones as Chair for the meeting.**

**2. DECLARATIONS OF PERSONAL INTEREST**

There were no declarations of personal interest.

**3. TEMPORARY EVENT NOTICE - DERWYDD MANSION, DERWYDD ROAD, AMMANFORD, CARMARTHENSHIRE, SA18 3LQ**

The Sub Committee adjourned at County Hall, Carmarthen at 9:30am and reconvened on site at 10.10am, in order to view the premises where it was afforded the opportunity of examining both the internal and external facilities which included the location of the marquee and the objector's properties. Following conclusion of the site visit, the Sub Committee reconvened in the Chamber, County Hall, Carmarthen, at 11.50am to consider the applications.

The Legal Services Manager briefed all present on the procedure for the meeting and advised the Sub Committee that an objection notice had been submitted by the Public Health Department of Carmarthenshire County Council in relation to 4 Temporary Event Notices which had been submitted by Mrs Maria Dallavalle of La Scala, 15 Bryn Mawr Avenue, Ammanford, SA18 2DA.

The Temporary Event Notices related to the sale by retail of alcohol, the provision of Regulated Entertainment and Late Night Refreshment, on the premises on the following days and hours:-

Temporary Event Notice 1 –
Saturday 28th July 2018 - Great Hall, Derwydd Mansion.

- Supply of Alcohol, Regulated Entertainment and Late Night Refreshment 12:00-00:30.

Temporary Event Notice 2 –
Saturday 25th August 2018 - Upper Lawn, Derwydd Mansion.

- Supply of Alcohol, Regulated Entertainment and Late Night Refreshment 12:00-00:30.

Temporary Event Notice 3 –
Saturday 1st September 2018 - Upper Lawn, Derwydd Mansion.

- Supply of Alcohol, Regulated Entertainment and Late Night Refreshment 12:00-00:30.

Temporary Event Notice 4 –
Saturday 3rd November 2018 - Great Hall, Derwydd Mansion.

- Supply of Alcohol, Regulated Entertainment and Late Night Refreshment 12:00-00:30.

The Legal Services Manager reported that the Public Health Department had objected to all of the 4 Temporary Event Notices on the grounds of noise nuisance arising from previous events held at the premises.

The Sub Committee considered the documents submitted, and all relevant written representations received before the hearing from the parties.

The Sub Committee also received an oral representations from the Environmental Health Practitioners:-

The Environmental Health Practitioner stated that he had objected to the Temporary Event Notices due to previous history regarding noise nuisance during events at Derwydd Mansion in the order as follows:-

- In 2016, the first noise complaint was received from a neighbour in respect of a vintage car show which included loud music, traffic and people noise. The Sub Committee was informed that due to the one off nature of the event, there were little options to action. However, a letter was sent to person who issued the Temporary Event Notice outlining the nature of the complaint received.

- In 2017, two Temporary Event Notices were issued for weddings at Derwydd Mansion which no objections were received. Following the event which was held within the main hall within the mansion, a noise complaint was received. As a result of the complaint, monitoring of noise levels was undertaken for the next Temporary Event Notice which was held in the marque at the back of the property. Noise was recorded from within the bedroom of the nearest premises which belonged to the complainant. It was reported that the noise levels were significant.

As a result of the aforementioned evidence a letter was sent to the issuer of the Temporary Event Notice and the owner of the premises which gave a warning of the risk to objection to any future Temporary Event Notices, appended to the report at Appendix A3.

- In May, 2018 a wedding was held in the marquee which was initially objected however, measures were agreed to reduce noise impact and the objection was subsequently withdrawn. The measures agreed were as follows:
  - Security staff to be arranged to ensure that guests are kept away from the boundary of the neighbouring properties.
  - The audibility of the entertainment to be reduced after 11:00pm to make the music 'barely audible' at the neighbouring property.
  - To engage an Acoustic Consultant at the event which would include the monitoring of noise levels outside neighbours property.

At this point the Sub Committee was afforded the opportunity to listen to audio recordings captured by Environmental Health Officers during the monitoring of noise levels. The audio recordings verified that the music was clearly audible and loud enough that individual songs could be identified. In addition, the audio also revealed people screaming and shouting, engine noise and vehicles travelling over loose chippings.

The Principal Environmental Health Practitioner stated that he had been requested to undertake the monitoring for the event held on 22nd June 2018. It was reported to the Sub Committee that he had arrived at approximately 10.40pm and that it was a clear warm night with very little other noise in the area. The audio monitoring had taken place in the entrance to a field which had benefited from some noise screening from the high wall and the mansion itself. However, despite this, the noise remained clearly audible from the monitoring location, which was considered to be an unacceptable level of noise. Monitoring was undertaken from approximately 10.55pm. The Officer stated that as verified by the audio played to the Sub Committee, the music was easily identifiable and that the DJ could be clearly heard. In addition, he reported that he did not subjectively notice any reduction in noise levels until after 12:00am. It was also noted that only 6 or 7 cars had passed over a lengthy period of time. After midnight there was a higher level of people noise and the music had changed emphasis from dance music to slower songs.

All parties were afforded the opportunity of questioning the Environment Health Officers on their representations and the evidence presented.

- In response to a query from the Acting Legal Services Manager, the Environmental Health Practitioner stated that the application of Section 80 of the Environmental Protection Act had been considered, however, the monitoring was not taken from inside of the complainant's property and therefore, it was decided that it was not appropriate to serve a Section 80 Abatement notice.

- In response to a query, the Environmental Health Practitioner stated that with regard to this complaint the primary concern was music noise. However the people noise was also a concern and that the nature of alcohol premises was likely to give rise to people noise.

- Clarity was sought with regard to the definition of 'barely audible' as stated within the measures. The Environmental Health Practitioner stated that whilst the description of 'barely audible' was subjective and agreed to discuss further with the applicant and the noise consultant to agree on a more objective measurement.

The Sub-Committee thereupon received evidence from neighbours of the property who supported the Environmental Health Services objections to due to the following:-

- The witnesses had moved to the neighbouring cottage for peace and quiet;

- the wedding events emitted loud music/people shouting which made it difficult to sleep;

- The events were an invasion on their lives and was having a detrimental effect on their health.

All parties were afforded the opportunity of questioning the witness on their representations.

Reference was made to the audio recordings played earlier in the meeting. In response to a query, the witnesses explained that the recordings were typical of most events however, there had been previous events where the noise had been much worse. The witnesses also emphasised that it was not just the problem of loud music it was also the people noise and cars.

Mrs Dellavalle thereupon addressed the concerns and issues raised and advised that:-

- She had consciously made efforts to improve the organisation of each event which included the limitation of noise.
- Security staff had been employed to marshal customers leaving and limit people noise.
- Had taken on board what Council had requested. However, due to the time limit she was unable to engage an acoustic consultant ahead of the 2nd June 2018 event. However, staff on duty had monitored noise levels by utilising an app.
- An occupier of a neighbouring cottage had stated their satisfaction with regards to the organisation of the wedding held on the 2nd June 2018. In addition the neighbours had stated in a letter that they hardly heard any noise and after midnight it fell silent.

[Note: With the agreement of all parties, the Sub-Committee was circulated with copies of an e-mail dated 11th June, 2018 from another neighbouring cottage].

- The Temporary Event Notices conclude at 12:30am and in readiness all entertainment ceased at 12:00am.
- The marquee had been moved further away from the boundary closest to the neighbours.
- The events were arranged on a temporary basis and were not held every weekend.
- She welcomed the opportunity to work with neighbours and the Authority in order to come to amicable arrangements.

The Sub-Committee received a representation from Mr Ian Matthews, Mrs Dallavalle's Acoustic Consultant and provided the following observations:-

- Mr Ian Matthews introduced himself to the Sub Committee as the Acoustic Consultant of Red Twin Acoustics and stated that he was a Chartered Engineer and a Member of the Institute of Acoustics.
- The events are located in a quiet and remote area.
- Number of people likely to be affected by noise are quite small.
- Other neighbours had not reported any problems.
- Concerned that the noise recordings had been taken from 2 different locations.
- Audibility is subjective, which was accepted by the objector.
- To date, he had not had an opportunity to view the data of the recordings and requested to be given the chance to do so.
- Agreed that the 2017 measurements seemed to be more disruptive however, he would like the opportunity to review these.
- Requested an opportunity to monitor noise levels of an upcoming event in order to review how the events are managed and observe how people are moved around.

The Sub-Committee thereupon

**UNANIMOUSLY RESOLVED to retire into private session in order to receive legal advice pursuant to Paragraph 16 of Schedule 12A of the Local Government Act.**

Following the adjournment, the sub-committee also had regard to relevant paragraphs of the Licensing Authority's Statement of Licensing policy and of Guidance issued by the DCMS and Home Office identified in the agenda item, and those to which it had been referred by the parties.

**RESOLVED that, having considered all the evidence before it, the sub-committee finds that the Temporary Event Notices should be dealt with as follows:-**

| | | |
|---|---|---|
| **Temporary Event Notice 1 -** | **28th July 2018** | **No Counter-notice issued** |
| **Temporary Event Notice 2 -** | **25th July 208** | **Adjourn to 31/07/18** |
| **Temporary Event Notice 3 -** | **1st September 2018** | **Adjourn to 31/07/18** |
| **Temporary Event Notice 4 -** | **3rd November 2018** | **Adjourn to 31/07/18** |

**REASONS:-**

In coming to its decision, the Sub Committee had made the following findings of fact;

1. There have been noise nuisance complaints relating to previous events at the premises;

2. Noise problems relate not just to regulated entertainment but also to people and vehicle noise;

3. Environmental Health Department consider that to allow the events to proceed would undermine the licensing objective of preventing public nuisance;

4. There is no premises licence in place in respect of the premises;

5. The police have not issued an objection notice in respect of any of these events.

The Sub Committee had attached weight to the views of the Environmental Health Department.

The Sub Committee recognised that its decision must be based upon real evidence, and that concerns and fears about what might happen if these events were to take place, where unsupported by such evidence, are not matters which they could properly take into account.

The Sub Committee found the evidence of the complainants to be credible and compelling.

Under section 105(2)(b) of the Licensing Act 2003 (as amended) the Sub Committee must issue a counter notice should it consider appropriate to do so for the promotion of a licensing objective, in this case the prevention of public nuisance.

In their decision whether it was appropriate to issue a counter-notice the Sub Committee had taken the following into account;

1. The nature and extent of any noise nuisance that had occurred during past events including in particular whether it has caused a nuisance to the public or a section of the public;

2. The precise location within the premises of the proposed events;

3. The available expert evidence of the likely impact of the proposed events on the public;

4. The impact of issuing a counter notice and, in particular, whether such a course of action would be a proportionate response to the issues identified;

5. The existence of other statutory powers to deal with noise nuisance.

The Sub Committee felt that the evidence before it was currently inadequate for it to come to an informed decision as to whether it would be appropriate and proportionate to issue a counter-notice. In particular, the Sub Committee felt there would be real benefit in Mr Matthews (the acoustic consultant engaged by Mrs Dallavalle) and Environmental Health Practitioners monitoring the impact of an event at the premises and then working closely together to try and address the complaints of neighbouring residents.

The Sub Committee had particular regard to section 13 of the Council's statement of Licensing Policy and the requirement not to duplicate other statutory regimes when making its decision.

For the reasons provided above, the Sub Committee felt that it would not be appropriate to issue a counter-notice in respect of the event of the 28th July 2018. This would enable that event to be used to gather the additional evidence referred to above.

Consideration of the other events would therefore be deferred until after that event had taken place, to ensure that the noise experts were better placed to advise the Sub Committee.

**CHAIR** **DATE**