

LICENSING SUB-COMMITTEE

Tuesday 8 November 2022

Present:

Councillors Asvachin, Snow and Wright

Also Present:

Legal Advisor, Principal Licensing Officer, Legal Apprentice and Democratic Services Team Leader

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APPOINTMENT OF CHAIR

Councillor Snow was appointed as Chair for this meeting.

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DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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APPLICATION TO REVIEW A PREMISES LICENCE

The Chair introduced the Members of the Sub-Committee together with the Legal Advisor, the Principal Licensing Officer and the Democratic Services Officer. The Legal Advisor set out the hearing procedure and all parties in attendance, agreed that the procedure was understood.

The Principal Licensing Officer presented the application received from Environmental Health at Exeter City Council, which sought a review of the Premises Licence held by Heavitree Social Club. The review application had been advertised and circulated as required by legislation and referenced the licensing objective of the prevention of public nuisance. A number of Environmental Health officers had been involved with various complaints in relation to the premises and a number of recordings of noise complaints had been taken, which was presented at the meeting. The last date for representations was 5 September 2022 and 14 representations had been received from local residents, with an additional representation received from Environmental Health.

The Application for a review of the premises referenced the licensing objective for the prevention of public nuisance, on the following grounds:-

- Nuisance witnessed at the premises;
- Internal and external loud music; and
- Loud external activities, such as the splash pool.

Members noted that a number of Environmental Health Officers had witnessed noise nuisance at the premises and a resident had submitted a witness statement of the public nuisance at the location. Noise analyses recordings had been taken and the analytics of the recordings had been submitted as part of the agenda report. Environmental Health had also submitted a witness statement and submitted additional recordings of the noise recorded from complainants.

Members also noted that a representative for the Premises Licence Holder had requested a time extension for when the hearing was to be heard to allow

discussions between the parties in respect of the matters raised. The Licensing Authority had considered it to be in the public interest to extend the statutory time period and had been agreed with other parties.

The Principal Licensing Officer advised that late submission documents, which included an acoustics report, photos, and statement from the Designated Premises Supervisor and supporting statements had been received and circulated to all parties.

The Applicants were in attendance and spoke in support of the review and responded to questions from Members, the legal advisor and the respondents. Two local residents who had made representations, were also in attendance to speak on the matter and responded to questions from Members, the legal advisor and the respondents. The respondents on behalf of the premises and their legal advisor were also in attendance, speaking in support of the premises and responded to questions from all parties.

All parties made a final statement and were advised that a decision notice would be issued within five working days of the hearing. The Legal Advisor stated that the parties had a right of appeal against the decision notice to the Magistrates Court within 21 days of being notified of the decision.

The meeting was closed so that the Members could determine the application.

RESOLVED to modify the conditions on the Premises Licence as set out in the formal decision notice attached.

(The meeting commenced at 10.15 am and closed at 2.45 pm)

Chair



Exeter City Council

LICENSING ACT 2003

NOTICE OF DETERMINATION

Date of Hearing:	8 th November 2022
Application:	Review of a Premises Licence
Name of Premises:	Heavitree Social Club
Address:	2 East Wonford Hill Exeter Devon EX1 3BS
Licensing Sub-Committee:	Cllr M Snow (Chair) Cllr M Asvachin Cllr L Wright
Committee Legal Advisor:	Matthew Hall Max Murphy
Principal Licensing Officer:	Nigel Marston
Democratic Services Officer:	Mark Devin
The Applicant:	Environmental Health of Exeter City Council Simon Ruddy (Principal Environmental Health Officer) Rebecca Padfield (Environmental Health Officer)
Representations:	Jonathan Geyde (Local resident) Susan Spiers (Local resident)
Premises License Holder:	Mark Hunt (DPS) Kevin Homeyard (Trustee of Heavitree Social Club) Tim Selley (Solicitor WBW)
Hearing Duration:	10:00 hrs to 14:45 hrs

TAKE NOTICE:

That the Licensing Sub-Committee convened on 8th November 2022 to determine the application for review of a premises licence has resolved to modify the conditions in accordance with section 52 of the Licensing Act 2003 and as set out in this notice.

THE SUB-COMMITTEE'S DECISION:

In determining this application, the Licensing Sub-Committee took into account all the relevant evidence and information presented to it both written and oral, and took account of all the matters it is bound to take account of, in particular the following:

- Licensing Act 2003
- Statutory Guidance
- Exeter City Council Statement of Licensing Policy
- Human Rights Act 1998
- Any equality and diversity considerations

Conditions applied to the Licence for the promotion of the prevention of public nuisance.

1. The performance of outdoor regulated entertainment shall be limited to two events per year.
2. Outdoor regulated entertainment shall only take place 28 days after agreement with the Environmental Health Department and Licensing Department of Exeter City Council of a Noise Management Plan which shall include (but not limited to) the following requirements;
 - The performance of outdoor regulated entertainment shall;
 - o Be for a duration specified in the Noise Management Plan.
 - o Only take place between 1400hrs and 1800hrs.
 - o Have noise levels monitored using an appropriate noise measuring device and kept below a specified level to be agreed in the Noise Management Plan.
 - Outside Speakers – volume to be kept at a specified level to be agreed within the Noise Management Plan.
 - Indoor Entertainment – procedure for the prevention of noise breakout from doors and windows of the premises during regulated entertainment at the premises.
 - Procedure for the advance notification to residents of events which include regulated entertainment.
 - Process for recording and dealing with noise complaints.
3. The Noise Management Plan agreed in accordance with the condition above shall be implemented at all times during the performance of regulated entertainment at the premises.

Reasons

The application was made on the grounds of public nuisance, and having considered all the evidence before them the Licensing Sub-Committee was satisfied that the noise emanating from the premises was at a level so as to cause a public nuisance to nearby residents and undermine the Licensing Objective of the prevention of public nuisance.

The evidence presented from the Environmental Health department and residents also established that the premises was not complying with existing conditions to manage noise nuisance and liaise with residents in order to minimise disturbances as set out in the decision notice granting the Licence in June 2021. An Abatement Notice had also been served on the premises on 13th September 2021 which Environmental Health stated had been breached. This compounded the Licensing Sub-Committee's concerns about how the premises is managed to promote the Licensing Objective of the prevention of public nuisance.

The Licensing Sub-Committee noted that steps had been taken by the licence holder to engage an acoustic expert however the acoustic report submitted needed further work including consultation with Environmental Health and residents. It had also been submitted the day before the hearing and therefore it was too late to establish a suitable Noise Management Plan at this time.

The Licensing Sub-Committee gave serious consideration prohibiting all outdoor regulated entertainment from the Premises Licence but accepted that the premises is a community facility and if able to operate outdoor events without disturbing residents would benefit the community as a whole. The Licensing Sub-Committee's confidence in the operation of the Premises was enhanced by the attendance of a club trustee, Mr Homeyard, who gave

assurances to provide more operational support, accepted mistakes had been made and was taking the issues of noise nuisance seriously.

When balancing the need for the premises to continue as a viable business and the residents' right to peaceful enjoyment of their homes the Licensing Sub-Committee considered that the conditions added to the Licence provided a mechanism to give the Premises an opportunity to prove it can operate outside events and minimise disturbance to residents. In addition a suitable Noise Management Plan would minimise noise nuisance from the outside speakers and the breakout of noise from regulated entertainment taking place inside the Premises.

Advisory Note; It is the responsibility of the Premises Licence Holder and the Designated Premises Supervisor to operate the premises in a way that promotes the Licensing Objectives in this case the prevention of public nuisance and not the residents or the Council in its functions as Licensing and Environmental Health Authority.

RIGHT OF APPEAL:

All parties are reminded of their right to appeal against this decision to the Magistrates Court by virtue of Section 181 and Schedule 5 Part 1 of the Licensing Act 2003. Any appeal must be made within the period of 21 days beginning with the date on which you are notified of the decision appealed against.

Any Appeal is commenced by a notice addressed to:

The Clerk to the Justices, North and East Devon Magistrates Court Office, Southernhay Gardens, Exeter, EX1 1UH Telephone 01392 415300.

Parties were advised to contact the court office to check the form of notice required and the fee payable.

The Chair of Licensing Sub Committee



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Date: 14 November 2022

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