

LICENSING AND APPEALS SUB-COMMITTEE

19th July 2006

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillors Southern and Whyman, M.B.E. (Labour Group) and Councillor Lemmon (Conservative Group).

District Council Representatives

J. Tsoi (Legal Advisor to the Sub-Committee), A. Kaur (Legal Officer), D. Townsend (Democratic Services), C. Jacobs, M. Sunter and J. Salter (Licensing Department).

Non-Council Attendees

A. Conroy, C. Mallinson, R. Dolan (William Allitt School), J. Smith (Popplestone Allen – representing objectors), M. Brooks, D. Dye, P. Staley, P. Cullen, S. Barrett, R. Barrett, P. Stones, B. Thornewill (objectors).

LA/4. **APPOINTMENT OF CHAIR**

RESOLVED:-

That Councillor Whyman M.B.E. be appointed Chair for the Meeting.

LA/5. **APOLOGIES**

Apologies for absence from the Meeting were received from Mr. and Mrs. Kite.

MATTER DELEGATED TO SUB-COMMITTEE

LA/6. **APPLICATION FOR PREMISES LICENCE AT WILLIAM ALLITT SCHOOL, SUNNYSIDE, NEWHALL**

Following introductions and clarification of the procedure, the Licensing Enforcement Officer was invited to present his report, which had been circulated with the agenda.

Jonathan Smith of Popplestone Allen then continued to address the Sub-Committee. He reported that he would be calling upon three witnesses, being P. Stone of No. 9 Sunnyside, R. Barrett of No. 4 Sunnyside and B. Thornewill of No. 16 Sunnyside.

A copy of an enlarged street plan of the area was then distributed to those present and the positions of the premises were highlighted. Mr. Smith explained that the twenty-three households who were objecting to this application had instructed him to make representations on their behalf.

Mr. Smith confirmed that in addition to the Dance Theatre, planning permission had been granted in March 2005 for a Dance Studio, which Mr. and Mrs. Barrett had objected to. He also added that Mr. and Mrs. Barrett had complained to the school on a number of occasions regarding the noise

from the dance studio, which was only 13 metres away from Mr. and Mrs. Barrett's home. There had been no consultation with local residents from the school either prior to the granting of planning permission or since planning permission had been granted. Mr. Smith confirmed that he had sent a letter to the school making proposals prior to the hearing in an attempt to reach a compromise. These proposals were as follows:-

- (a) Any room which was to be used for regulated entertainment was to be sound-proofed to a level which was to be agreed with residents and approved by the Council's Environmental Health Officer to ensure that noise was inaudible when measured within 1 metre inside any bedroom at any residential property with the windows of the house open;
- (b) All doors and windows were to be closed except for access and egress whilst any regulated entertainment took place.
- (c) Only the lower entrance to the school was to be used after 6.00 p.m. when licensable activities were being carried out at the school and a Marshall was to be present at the lower entrance after 6.00 p.m. when licensable activities were being carried out at the school premises.
- (d) Hours of the licensable activities were to be restricted to Mondays – Fridays from 9.00 a.m. to 9.00 p.m. with premises closing at 10.00 p.m. and on Saturdays from 10.00 a.m. to 9.00 p.m. with premises closing at 10.00 p.m.
- (e) There would be no licensable activities taking place on either Sundays or Bank Holidays.

Mr. Smith confirmed that local residents did not want to stop any activities taking place at the school. However, they did want events to be regulated and managed effectively. Mr. Smith introduced a number of coloured photographs, which were distributed to the Sub-Committee and others present.

Mr. Smith introduced Rowena Barrett as his first witness of No. 4 Sunnyside. She confirmed that she had lived in the Old School House for approximately ten years. She confirmed that there had been no consultation with regard to the construction of the studio. When approaching the school to discuss this issue, she was told the new building would be beneficial as it was to be a purpose built sound-proofed building. Following the construction of this studio, Mrs. Barrett advised the Sub-Committee that the noise was greater in the evening. She confirmed that from her garden, conversations could be heard from within the building and performances could be heard clearly. She stated that the building was not fit for purpose. She complained formally in 2006 to both South Derbyshire District Council's Environmental Health Department and to William Allitt School. Mrs. Barrett also confirmed that Sunnyside was basically a cul-de-sac, with very limited parking. A bottle neck was often caused by parked cars which, in her opinion, put children in danger. She stated that she would prefer for the larger car park to be utilised as it had both an entrance and an exit. Mrs. Barrett did, however, confirm that she was fully supportive of the school and its activities.

Mr. Smith then called the second witness, Mr. Thornewill of No. 16 Sunnyside. Mr. Thornewill confirmed that he had lived at his property for 36

years. He added that he had never complained to the school but that the situation had gradually escalated. He confirmed that the noise was at times horrendous, emitting from both halls and classrooms and that he had to sit indoors with his windows shut. He also confirmed that parking was very difficult during particular events.

Mrs. P. Stones was then called as a witness from No. 9 Sunnyside, Newhall. Mrs. Stones confirmed that she had lived at her property for 23 years and that the noise in her back garden was terrible. She also added that she was concerned with lack of communication from the school, and that the car parking situation was horrific and inadequate.

The Sub-Committee asked questions of the interested parties and also invited the Council's licensing representative and the applicant to put questions to them.

The Sub-Committee then invited Mrs. Conroy, on behalf of the applicant, the William Allitt School, to speak. She stated that the building previously referred to as the dance theatre was actually a drama theatre. She added that with regard to parking, as congestion was a problem, it was not practical to close any other entrances to the car park or the school as this would limit spaces.

Mrs. Conroy continued by stating that each building had capacity limits which were always adhered to and that the school had never been advised by the Council's Environmental Health Department that the noise was too loud. Mrs. Conroy accepted that there had been a lack of communication between the School and the residents and expressed her apologies and hoped that this could be rectified in the future, as the school wished to include the local community in events being held at the school. Mrs. Conroy confirmed that they did not intend for performances to continue beyond 10.00 p.m. in the studio, in line with planning permission.

Mr. Mallinson also confirmed that the vast majority of functions which took place in school were normal school activities. These were not covered by the Licensing Act, and would continue. He added that they had a direct remit as a Specialist Performing Arts College from the DFES that a third of all funding must be used for out of school contact, i.e. the general public. This was why the Licence was necessary and, if not granted, funding would be stopped.

Mr. Dolan then confirmed that the school would like to become more active in their communication with residents.

The Chair suggested that outside of any issues surrounding the licensable activities, it may be desirable to establish a local liaison group between the school and the residents to ensure that all future lines of communication were kept open.

The Sub-Committee asked questions of the applicant and also invited the interested parties and the Council's Licensing representative to put questions to them.

At 12 noon, the Sub-Committee retired to consider its decision. At 12.45 p.m., the meeting was re-convened.

In making its decision, the Sub-Committee had regard to South Derbyshire District Council's Licensing Policy, the guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act 1998 and considered carefully all the evidence presented to it.

The Sub-Committee made its decision to promote the four licensing objectives, as follows:-

- (a) Prevention of Crime and Disorder.
- (b) Public Safety.
- (c) Prevention of Public Nuisance.
- (d) Protection of Children from Harm.

The Sub-Committee considered in detail the representations of the Council's Licensing Enforcement Officer, the interested parties and the applicant. The Sub-Committee resolved to grant the application for a Premises Licence as modified and conditioned, as follows:-

Plays

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 11:00 a.m. until 10:00 p.m.
- Any outdoor performances to take place during the daytime of the summer months between the hours of 11:00 a.m. until 6:00 p.m.

Films

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 10:00 a.m. until 10:00 p.m.

Live Music

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 10:00 a.m. until 10:30 p.m.
- Any outdoor performances to take place during the daytime of the summer months between the hours of 11:00 a.m. until 6:00 p.m.

Recorded Music

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 10:00 a.m. until 10:00 p.m.
- Any outdoor performances to take place during the daytime of the summer months between the hours of 11:00 a.m. until 6:00 p.m.

Performance of Dance

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 10:00 a.m. until 10:00 p.m.
- Any outdoor performances to take place during the daytime of the summer months between the hours of 11:00 a.m. until 6:00 p.m.

Anything of a similar description

- Monday to Saturday: 12:00 p.m. until 2:00 p.m.

Provisions of facilities for making music

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 10:00 a.m. until 10:00 p.m.
- Any outdoor performances to take place during the daytime of the summer months between the hours of 11:00 a.m. until 6:00 p.m.

Provisions of facilities for dancing

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 9:00 a.m. until 10:30 p.m.
- Any outdoor performances to take place during the daytime of the summer months between the hours of 11:00 a.m. until 6:00 p.m.

Provisions of facilities for entertainment of a similar description

- Monday to Friday: 9:00 a.m. until 10:00 p.m.
- Saturday: 10:00 a.m. until 10:00 p.m.
- Any outdoor performances to take place during the daytime of the summer months between the hours of 11:00 a.m. until 6:00 p.m.

The above are subject to the following conditions:-

- During regulated entertainment all on site parking areas are to be appropriately marshalled;
- Any rooms which are used for regulated entertainment are to be soundproofed at a level to be agreed and approved by the Council's Environmental Health department;
- All doors and windows are to be kept closed, except for access to and egress from, whilst any regulated entertainment takes place;
- There shall be no licensable activities taking place at the premises on either Sundays or Bank Holidays.

Having taken into account the four licensing objectives, the Guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998, the Sub-Committee sought to balance the interests of the applicant and the representations made by the interested parties. The Sub-Committee felt it was reasonable and proportionate to grant the Licence with amendments, subject to the conditions specified, imposed to address specifically the concerns raised.

The Chair reminded all parties that they could appeal to the Magistrates Court against this decision within a period of 21 days from receipt of the decision notice.

RESOLVED:-

That the application for a Premises Licence at the William Allitt School be granted, as set out above.

B. WHYMAN, M.B.E.

CHAIR

The Meeting terminated at 1.00 p.m.