

KNIGHT, Jennifer

From: ROSCOE, Hamish
Sent: 25-Nov-2016 13:33
To: LICENSING (Cheshire East)
Cc: KNIGHT, Jennifer;
Subject: Rumba 27 pickford street Macclesfield. Refusal of variation.
Attachments: RE: Rumba - Macclesfield - SK11 6JD - Management Plan [TLT-TLT.FID3846640]; RUMBA photo 3.jpg; Rumba Photo 4.jpg; RUMBA photo 1.jpg; Rumba photo 2.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Rumba
27 Pickford Street
Macclesfield
SK11 6JD

Ref PR/0496

Variation Application- licensable activities
Outside use
Outside bar
Extending timings

Public Protection and Health Dept (Environmental Health) consultation comments.

Refusal of variation on the licensing objective Public Nuisance (noise)

Comment and observation.

Having sort advice from the licensing department – people noise and noise from the activities of the premises are a material licensing consideration.

This refusal is on the basis that a workable and timely agreement has not been achieved with the applicants licensing solicitors despite discussions having taken place, this being the last working afternoon before the Sunday 27/11 deadline.

This premises has a complaint history that we have addressed with the premises, this stems from noisy use of the outside area without licensing permission during the summer. It is not uncommon for other members of the community to suffer without official complaint especially if they are aware of others complaining. This contact may have also been a material reason for the variation application to regularise that actual uses ?

A pre licensing application meeting was held on site but the matter of outside entertainment was not raised.

Following the application and the full extent of the variation was apparent an assessment of the site was made from the street by another officer. It was clear that the area was very mixed use of licenced, commercial and residential uses, that are in close proximity as is often the case close to the town centre.

It was also clear that the outside area had been developed with significant fencing and roof structures. This was notified to the councils planning enforcement team.

Please see the attached photographs for reference.

A subsequent meeting was arranged by a planning enforcement officer and a joint meeting was held on site with the planning enforcement officer, Environmental health together with the operators Chris Parsons and Martin Holmes.

At this meeting it was apparent that they didn't want or ask for the licensable entertainment use outside and also agreed that an earlier curfew was acceptable. Many issues were addressed some of which are not directly related to licensing but more around confidence in management thus advice was given. Eg structure erected without seeking planning opinion, use of the area with bar without licensing permissions, fire safety of the wooden structure and unidentified fire escapes, using the area for smoking contrary to the health act 2006- which we hope have been addressed in the mean time.

However, as the licence is a Punch tavern licence it was clear that an agreement couldn't be wholly achieved despite the local feedback. Thus negotiations were had with the licence holders legal representatives.

Despite some agreement (no outside entertainment) a complete settlement was not achievable in time (please note the time and date of this email as we have left it as late as possible before submission). In that outside speakers will be retained for background music and a volume set.

However setting a volume may be problematic and the perceived sound from an empty area and one full of people can be very different (louder without the absorption effect of people) thus difficult to say at any one time if its background music or entertainment ?

It also became clear from neighbours of Rumba that the wider community has interest and issues with the licence variation.

Thus at this late stage we do not feel it possible to negotiate a settlement that may exclude interested parties in this review process.

It is clear that the licence holder wishes to use the outside area into the more sensitive times (even in a town centre)of the early hours of the morning.

Whilst we accept that the night-time economy plays a part in a vibrant town centre we do not feel that this should be at the detriment of the wider community.

Internal activities where noise etc can be attenuated to an acceptable level is we feel the way forward in such circumstances. But the proposal for the outside use that encourages significant patron use is of concern regarding noise.

However, this variation of the outside use is beyond what can be reasonably mitigated into the early hours of the morning's. This is more apparent during the summer when it can be expected that residents would have their windows open at night.

People do not have a volume control and we accept that people whilst individually may not be acting in a way to cause concern for the management the "group" noise could be such that the accumulative affect is an unreasonable noise and the only real control is a curfew.

Whilst we understand that planning is not a material licensing consideration, we feel that it must be addressed here as the operators have by their own admission erected the structure as a noise barrier. This structure may not be permitted development and could become subject of enforcement action and /or removal. Thus we are not comfortable in placing possible noise mitigation via the licensing system of a possibly illegal structure.

The marquee roof does not provide any significant acoustic barrier effect, it only enables and encourages this outside use, together with the fixed seating, built in bar area, heating, lighting, speakers etc.

Many of the dwellings in the area are at a higher level being flats, apartments and bedsits etc above local retail and other commercial street front businesses, thus above any significant barrier affect afforded by the fence.

Thus due to the fact that we have received noise complaints about the external use, that we have not been able to reach a timely agreement with the applicant, that the operators and the licence holder appear to have different aspirations of the use of the premises and, as we understand it, additional members of the community are taking the opportunity to comment when it is possible they haven't made complaints directly to this department, we feel that we must object in the time frames open to us. That a committee hearing will air all the community issues that we are not a party to and make their decision.

Refusal on the Grounds of Public Nuisance (noise)

We have been advised that the licensing officer will share this objection with all necessary parties.

Hamish Roscoe
BSc(HONS), MCIEH,AMIOA
Senior Enforcement Officer

postal communication to:-

Cheshire East Council
Hamish Roscoe
Regulatory Services and Health
People Directorate
(Macclesfield Town Hall)

C/O Municipal Buildings
Earle Street
CREWE
CW1 2BJ

this email is intended for the named recipients :-To, Cc and Bcc only and remains confidential

KNIGHT, Jennifer

From: ROSCOE, Hamish
Sent: 23-Nov-2016 12:10
To: 'Rachel Kelly'
Subject: RE: Rumba - Macclesfield - SK11 6JD - Management Plan [TLT-TLT.FID3846640]
Attachments: Rumba - Garden Protocol CEC 23.11.16.docx

Hi Rachel

Thank you for this document.

I have made some comments for your consideration.

As you know our concern is the noise issues this outside areas raises for the wider community both music and people.

This people and entertainment noise affecting both local businesses and nearby residents needs robust controls and we cannot rule out justified complaint even if a noise management plan is agreed.

It was disappointing to hear that you would not go along with a lesser use time as we had discussed with Chris Parsons and Martin Holmes

The operators whom were more than willing to amend the timings.

I have asked that you reconsider this in the document notes, I believe that an earlier curfew time for the outside uses will allay the community fears of the noise disturbance as have been experienced.

Please note that any licensing discussions are on the basis of the current structures on site

Should our planning enforcement team deem that these structures are not allowable then the outside use as a whole may need to be revisited in licencing terms

I look forward to your observations on my suggestions.

Non Licensing observations for your consideration

Provided for wider advice as I am sure you are aware Environmental Health professionals cover many aspects of public health, safety licencing planning etc

I am aware that the structures – fencing and roofing are being considered by our planning enforcement team.

Please also note that allowing smoking in this outside area as it is at the moment may be contrary to the Health Act 2006 as the area is not a 50% open smoking shelter may even be deemed a part of the enclosed building. Even the unroofed area by the steps to the front is not 50% open as it only lacks a roof, thus your clients may wish to consider this aspect

Your clients will also need to consider the fire escapes from this area that one door to the rear by the external bar was in effect a hidden door in the fencing without signage.

The materials used and the use of this outside area should form part of the premises fire risk assessment.(RRO2005)

I look forward to hearing from you in the near future

regards

Hamish Roscoe
BSc(HONS), MCIEH, AMIOA
Senior Enforcement Officer

postal communication to:-

Cheshire East Council
Hamish Roscoe
Regulatory Services and Health
People Directorate
(Macclesfield Town Hall)

C/O Municipal Buildings
Earle Street
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CW1 2BJ

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From: Rachel Kelly
Sent: 23-Nov-2016 09:02
To: ROSCOE, Hamish
Subject: Rumba - Macclesfield - SK11 6JD - Management Plan [TLT-TLT.FID3846640]

Dear Hamish,

Further to our telephone conversation last week, please find attached the garden/noise management plan for the above premises.

I trust this is satisfactory, bearing in mind the fact that no regulated activities will take place outdoors but we welcome any comments.

If you have any questions, please do not hesitate to get in touch.

Kind regards,

Rachel

Rachel Kelly
Legal Assistant
for TLT LLP

www.TLTsolicitors.com

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Rumba Macclesfield

GARDEN PROTOCOL

Amended November 2016

Comment [HR1]: The area is not a garden thus please consider "external areas" and change this reference within the document

THE INSTRUCTIONS CONTAINED IN THIS NOTE ARE EFFECTIVE IMMEDIATELY AND MUST BE FOLLOWED

OUR SINGLE OBJECTIVE IS TO REDUCE THE NOISE IMPACT FROM OUR GARDEN ON OUR NEIGHBOURS

Operational Management

- The Duty Manager will at all times be responsible for the proper supervision of the Garden.
- Each evening the Duty Manager will appoint one single person to supervise the garden ('garden supervisor') from 10pm.
- The Garden Supervisor will be primarily responsible for keeping the Garden area tidy of glass, crockery etc.
- The Garden Supervisor will be responsible for ensuring noise is kept to a reasonable level.
- Any customer who is shouting, singing loudly, causing a high level of noise or behaving in an unreasonable manner that is deemed by the duty manager/garden supervisor likely to cause offence or disturbance to other patrons or neighbours should be asked politely to stop.
- Those customers should be reminded that as a courtesy to our neighbours, noise must be kept to a reasonable level.
- If the customers persist, the Duty Manager should be informed.
- The Duty Manager should again ask the customer, as a courtesy to our neighbours to reduce the noise to a reasonable level OR THEY WILL BE ASKED TO LEAVE THE GARDEN.
- If they continue to make noise, they will be required to leave the garden.
- Where we have Door Security, the Door Supervisor should make a patrol of the Garden every 20 mins or more often if the Garden is busy. The Door Supervisor will not however, replace the Garden Supervisor, but will be there to assist.
- The Door Supervisor on the Garden Protocol should be fully briefed from the Duty Manager at the start of the evening.
- Any clearing down of the garden must be carried out within an hour of the garden closing to customers. Once the garden closes to customers, no one except staff is permitted to enter the garden. Once the hour is up, no one, including staff must enter the garden, the doors must be locked and lights must be switched off. Deep cleaning of the garden must be carried out the following morning.
- It should be remembered that bottles and glasses make a very loud noise in an empty Garden. Glass collection will be carried out on a regular basis with a special effort from 11pm.
- No bottle tipping into bulk containers shall take place outside after 21.00 or before 08.30
- Should we receive any complaint, a full note should be kept in the Incident Book noting time of complaint, person's name/telephone/address, the details of the complaint and what action, if required, was taken as a result.

Comment [HR2]: Please amend all "should" to "shall" within the document to make it enforceable

Comment [HR3]: Suggested addition

Comment [HR4]: Of customer incidents eg manager actions (see above) as well as complaints. The log book shall be available to police and /or local authority officers during opening hours.

Comment [HR5]: Please consider an earlier termination time for the external areas due to the close proximity of residential dwellings eg midnight.

Garden Closure

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- The Garden will be emptied of its patrons 15 minutes after the bar closes.
- Clean down of the garden must commence between the hours of 01:15h and 02:15h

Speakers

Speakers in the garden will be used for background music only. This means music played at such a level that customers do not have to raise their voices over it to have a normal conversation.

The volume is to be set by the DPS or a member of the management team, and the volume control secured so that it cannot be tampered with or increased by other members of staff.

Any complaints about music from the garden to be investigated and where necessary the volume further reduced to ensure that the levels remain background and therefore by definition cannot be a disturbance to any neighbours.

Comment [HR6]: And recorded in the log book

Signage

Signs will be placed at the entrance to the garden reminding customers using the garden to respect the rights of neighbours to not be disturbed and informing them that management reserve the right to ask individuals/ groups to come inside if they believe they are likely to be disturbing neighbours.

Comment [HR7]: Unless you are suggesting background is inaudible there is always the possibility for disturbance

REMEMBER, WE WOULD LIKE OUR CUSTOMERS TO ENJOY OUR GARDEN THROUGHOUT THE YEAR, BUT IT MUST NOT BE AT THE EXPENSE OF OUR NEIGHBOURS







