

Report for Resolution

Report to Executive
13 May 2009

Item

8

Report of Head of Legal Services

Subject Adoption of Schedule 2 of Noise and Statutory Nuisance
Act 1993

Purpose

To enable the use/provision of amplified music or sound on the streets after 21:00hrs

Recommendations

That:-

- (1) Schedule 2 of the Noise Nuisance Act 1993, to apply to the Norwich City Council area, be adopted;
- (2) a change of £50 per day per licence application be imposed.

Financial Consequences

The financial consequences of this report are Nil.

Risk Assessment

There do not appear to be any risks to the Council. There may be objections to events if music or other sound is to be heard late in the evening or night but there is already a mechanism by which members of the public can voice their concerns before the Licensing Sub-Committee either before a street license is granted or by way of review of that licence.

Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority "Safe and healthy neighbourhoods – working in partnership with residents to create neighbourhoods where people feel secure, where the streets are clean and well maintained, where there is good quality housing and local amenities and where there are active local communities".

Executive Member: Councillor Bremner, Community Safety and Community Cohesion

Ward: All

Contact Officers

Yvonne Blake, Solicitor

01603 212037

Background Documents

Schedule 2 of The Noise and Statutory Nuisance Act 1993.

Report

Background

1. The Council has not adopted Schedule 2 of The Noise and Statutory Nuisance Act 1993. This schedule shown at Appendix A enables the Council to consent to the use of loudspeakers on the street after 21:00hrs with any conditions deemed suitable. Without this adoption no use of a loudspeaker (amplification of voice or music) can take place after 21:00hrs.
2. In order to regularise the situation and to enable relevant consent to be given the Executive is requested to adopt the schedule forthwith to apply to the Norwich City Council area.

Conclusion

3. If it is adopted the decision has to be advertised in a notice, which is published in two consecutive weeks, in a local newspaper circulating in the Norwich City Council area and must state that a resolution has been passed and set out the general effect of Schedule 2 and in particular for applying for a consent under the schedule.
4. The Council can impose a reasonable charge for any application it receives . Such a charge would need to cover the administration costs of processing the application.
5. Other authorities which have adopted it such as Westminster have guidance on their websites about applying for a consent and Anglesey which adopted the schedule in 1994 have regular applications and charge £50 per day. Canterbury is in the process of adopting it.
6. If it is not adopted then use of amplified sound after 21:00hrs is a criminal offence. The penalty for which is a fine not exceeding level 5 together with a further fine of £50 for each day the offence continues after the conviction.

**Control of Pollution Act 1974
As Amended by
Section 7, Noise and Statutory Nuisance act 1993**

S.62

- (1) Subject to the provisions in this section, a loud-speaker in a street shall not be operated –
- (a) between the hours of nine in the evening and eight the following morning for any purpose;
 - (b) at any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loud-speaker in contravention of this subsection shall be guilty of an offence against this part of this Act.

In this section “street” means a highway and any other road, footway, square or court which for the time being is open to the public.

(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loud-speaker in a street at any time between the hours of nine in the evening and eight in the following morning.

- (2) Subsection (1) of this section shall not apply to the operation of a loud-speaker –
- (a) for police, fire brigade or ambulance purposes, by a water authority in the exercise of its functions, or by a local authority within its area.
 - (b) for communications with persons on a vessel for the purpose of directing the movement of that or any other vessel;
 - (c) if the loud-speaker forms part of a public telephone system;
 - (d) if the loud-speaker-
 - (i) is in or fixed to a vehicle, and
 - (ii) is operated solely for the entertainment of or for communicating with a driver or a passenger of the vehicle or, where the loud-speaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

- (iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
 - (e) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public in a case where the loud-speaker operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
 - (f) by a travelling showman on land which is being used for the purposes of a pleasure fair;
 - (g) in case of emergency.
- (3) Subsection (1)(b) of this section shall not apply to the operation of a loud-speaker between the hours of noon and seven in the evening on the same day if the loud-speaker –
- (a) is fixed to a vehicle which is being used for conveyance of a perishable commodity for human consumption; and
 - (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
 - (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.
- (3A) Subsection (1) of this section shall not apply to the operation of a loud-speaker in accordance with a consent granted by a local authority under Schedule 2 to The Noise and Statutory Nuisance Act 1993.

Noise and Statutory Nuisance Act 1993

Section 8. Consent of local authorities to the operation of loudspeakers in streets or roads.

- (1) A local authority may resolve that schedule 2 is to apply to its area.
- (2) If a local authority does so resolve, Schedule 2 shall come into force in its area on such date as may be specified for that purpose in the resolution, being a date of at least one month after the date on which the resolution is passed
- (3) Where a local authority has passed a resolution under this section, the authority shall cause a notice to be published, in two consecutive weeks before the Schedule comes into force in its area, in a local newspaper circulating in the area
- (4) The notice shall –
 - (a) state that the resolution has been passed, and

- (b) set out the general effect of schedule 2 and, in particular, the procedure for applying for a consent under the schedule.
- (5) In this section “local authority” means –
- (a) in relation to England and Wales –
 - (i) the council of a district
 - (ii)

Schedule 2

Consent to the operation of Loud-speakers in Streets or Roads.

Local Authority Consent

1

(1) Subject to sub-paragraph (2), on an application made by any person, the local authority may consent to the operation in its area of a loud-speaker in contravention of section 62(1) of the 1974 Act.

(2) A consent shall not be given to the operation of a loud-speaker in connection with any election or for the purpose of advertising any entertainment, trade or business.

2 A consent may be granted subject to such conditions as the local authority considers appropriate.

Procedure

3 An application for a consent shall be made in writing and shall contain such information as the local authority may reasonably require

4

(1) Where an application is duly made to the local authority for a consent, the authority shall determine the application and notify the applicant in writing of its decision within the period of twenty-one days beginning with the day on which the application is received by the authority.

(2) In a case where consent is granted, the notification under sub- paragraph (1) shall specify the conditions, if any, subject to which the consent is granted.

5 An applicant for a consent shall pay such reasonable fee in respect of his application as the local authority may determine.

Publication of Consent

6 Where the local authority grants a consent, the authority may cause a notice giving details of that consent to be published in a local newspaper circulating in its area.

Interpretation

7 In this Schedule “a consent” means a consent under paragraph 1.