

Licensing Subcommittee

15 November 2013 at 9.30 am

Present: Councillors Tyler (Chairman), Clayden and McDougall

Licensing Officer	Peter Savage
Applicant	Sarah Meeten, Licensing Manager Leo Charalambides, Counsel for the Licensing Authority Delwyn Jones, Council's Solicitor present on behalf of the Licensing Authority
Responsible Authorities	PC Swietlik PC Whitcombe Nat Slade, Principal Environmental Health Officer Nick Howard, Environmental Health Officer
Licensee	Miss Shayni White Mr Fitzjohn, Partner of Licensee
Legal Representative	Helen Atkinson, Council's Legal Representative

1. Election of Chairman

Prior to commencement of the meeting it had been agreed that Councillor Tyler would chair the meeting.

2. Declarations of Interest

There were no Declarations of Interest made at the commencement of the meeting. However, in the course of the meeting, it was disclosed by the Licensee that she was taking legal advice from Wannops. Councillor McDougall therefore declared a personal interest as his wife was employed by the same firm, but at a different branch and in the Conveyancing Department.

3. Review of Premises Licence under Section 51 of the Licensing Act 2003 – Whites, Station Approach, Station Road, Bognor Regis

The Chairman asked if there was any reason to enable the hearing to be dispensed with and was advised by the Licensing Officer that there was not.

Prior to commencement of consideration of this item, the Chairman requested those in attendance to introduce themselves and stated that there

was a laid down procedure to be followed, a copy of which was before all those speaking at the meeting. He also stated that a verbatim note of the meeting would not be taken and should anyone wish anything particular to be noted they should indicate accordingly to enable this to be done.

The Licensee and her partner requested the Subcommittee to adjourn the proceedings as there had been insufficient time for her legal representative to read the papers that had been sent out. Miss White and Mr Fitzjohn had repeatedly requested sight of the evidence to be produced but this had not been delivered until 7 November 2013 and they could not contact their solicitor until 11 November. Miss White had not been able to actually speak to her solicitor until Wednesday 13 November and he advised that he would be unable to consider all the documentation in time for the hearing today. (A letter from Mr Chatterton was circulated to the Subcommittee to that effect at the meeting.)

The Licensing Officer advised that the documentation was circulated to all parties within the timescales laid down by legislation and that notices relating to the review were put up at the premises on 3 October 2013 and a Notice served on the same day. The Licensee was fully aware as a telephone call was made to the Licensing Department in connection with that action. The hearing was advised of the timescales that had been followed to adhere to the procedure laid down in the Licensing Act.

Counsel for the Licensing Authority stated that he opposed the request for an adjournment in the strongest terms. This was an administrative hearing that was required by Parliament to deal with the matter within a specific timescale and adjournments could only be granted in exceptional circumstances. He was surprised that Miss White and Mr Fitzjohn had not seemed to know what was going on as they had been aware since 03 October 2013 that a review had been requested and Mrs Meeten had set out in great detail the grounds and reasons for the review. The Subcommittee had been convened, all the responsible authorities were present and legal representation was in attendance and his view was that there was a wider public interest to be considered, i.e. public safety, rather than the more narrow interest of a commercial venture.

The Subcommittee then retired from the hearing to consider the request for an adjournment, together with the Council's legal representative, Mrs Atkinson.

On reconvening the hearing, the Chairman advised all those present that the Subcommittee had rejected the request for an adjournment as the Members felt it was in the public interest to deal with the matter today. Their view was that the Premises Licence Holder, Miss White, had been aware since 03 October 2013 that a review would be taking place and should have made contact with her solicitor to brief him accordingly. Following the hearing, he further advised Miss White that she would have a right of appeal, dependant on the outcome.

Miss White and Mr Fitzjohn declined to take any further part in the proceedings and left the meeting.

The Chairman informed the hearing that the Subcommittee had fully read and digested the comprehensive documentation provided and that he would be following the laid down procedure to consider the matter.

The Licensing Officer presented a report which set out the detail of an application submitted by the Licensing Authority under Section 51 of the Licensing Act to request a review of the premises known as Whites, Station Approach, Station Road, Bognor Regis. The review application outlined serious and recurring breaches of the licensing conditions which compromised the licensing objectives of Public Safety and Crime and Disorder. In addition, although Miss White was the Premises Licence Holder, Mr Fitzjohn was predominant in any dealings with the Police or other responsible authorities with regard to the operation of the business.

In line with the Council's procedure, written representations were received and taken due account of from the applicant, the Council's Food Safety Team and the Police. The applicant's legal representative reinforced the evidence presented and was of the view that flagrant abuses of the drinking condition and the food condition attached to the licence had occurred on a number of occasions. The Police and Environmental Health officers were also present to reaffirm the problems associated with the premises.

In the course of questions and answers between all parties present, it was confirmed that the premises had a Food Safety rating of 0 (Zero) at the present time and that the Food Safety Team had constantly made efforts to advise Mr Fitzjohn and the staff on their responsibilities with regard to the preparation of food and good hygiene principles.

The Subcommittee then retired from the meeting to consider its decision. The Council's legal representative was asked to verify the lawfulness of the decision being made and, on the meeting being reconvened, the Chairman gave advice to that effect.

The Chairman then advised all those in attendance of the decision of the Subcommittee as follows:-

That the licence be revoked.

Reasons:-

1. In the interest of Public Safety, the Food Safety Officers had tried to work with the premises, both prior to opening and during operations and, from the evidence presented, it was obvious that advice was being disregarded, as also evidenced by a 0 (zero) Food Safety rating. It was noted, however, that some improvements had been carried out but these were not sufficient to raise the premises to an acceptable standard.

2. In the interest of Prevention of Crime and Disorder, the Subcommittee felt that the evidence provided by Arun as Licensing Authority and Sussex Police, was so compelling that no other conclusion could have been considered. For the premises to continually breach licensing conditions whilst Police Officers and Licensing Officers were in attendance was a real indication of how the premises were being managed. In conclusion, the Subcommittee noted that the premises and the licensee did not take on board the seriousness of these breaches and failed to take the advice and assistance of all the responsible authorities.

(The meeting concluded at 11.15 am)

Signed Chairman