

Licensing Subcommittee

23 November 2016 at 9.30 am

Present:- Councillors Charles, Clayden and Warren

Licensing Officer	Andrew Burrows, Assistant Licensing Officer
Applicant	Sarah Meeten, Licensing Team Manager
Responsible Authorities	Fiona Fitzgerald, Senior Environmental Health Officer Jean Irving, Head of Licensing & Public Safety, Sussex Police Sgt Turner, Sussex Police PC Jones, Sussex Police
Licensee	Rachel Searle Sean Parker
Legal Representative	Andrew Eaton

Councillor Dingemans was also present as an observer.

1. Election of Chairman

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

2. Declarations of Interest

There were no Declarations of Interest made.

3. Application for Review of a Premises Licence, Licensing Act 2003 S51 – Seafish Café Bar Venue Ltd, 49 Aldwick Road, Bognor Regis

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 advised 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 Assistant Licensing Officer presented the report and outlined the reasons as to why the request for a review of the premises licence had been submitted by Arun District Council Licensing Authority. It was advised that the licensees had shown a total disregard for the terms of their premises licence,

therefore undermining the licensing regime and, in particular, the licensing objectives of Prevention of Crime & Disorder and Prevention of Public Nuisance.

In line with the Council's procedure, written and verbal representations were received and taken due account of from the Council's Licensing Manager and Senior Environmental Health Manager, the Police, the licensees and local residents.

The Licensing Manager advised the hearing that this review sought to address the lack of co-operation that had been experienced between the Licensing Authority, the Police and the licensees, together with the question around the suitability of the premises for its current use. It had had an established restaurant use over several years but in March 2016 had been taken over and the current use was impacting in a negative way on the local community. The licensees had demonstrated a consistent failure to address the problems, namely not adhering to the licence conditions and causing noise nuisance to immediate neighbours. Intervention over several months on the part of the relevant authorities had not resulted in matters moving forward sufficiently to prevent the necessity for this hearing.

Environmental Health had become involved in August 2016 when the Licensing Team had been unable to resolve the noise nuisance issues. The Senior Environmental Health Officer was able to confirm that the noise being experienced was of an unreasonable level for the average person and therefore constituted a statutory nuisance. As no response had been received to a letter she sent to the licence holder, and following two visits to the premises in September, a Noise Abatement Notice under the Environmental Protection Act 1990 had been served on the premises to ensure that music from the venue was kept to a reasonable level so as not to cause a Statutory Nuisance to local residents.

The Police advised that the licensing conditions at Seafish Café Bar were continually being breached and that intoxicating liquor should only be sold or supplied on the premises ancillary to meals. The Head of Licensing & Public Safety stated that evidence clearly showed that alcohol was being served without meals and two videos were presented of police officers entering the premises on separate evenings to illustrate the lack of adherence to the licensing conditions. She was of the view that if the licensees could not adhere to the present conditions, there would be no point in attaching further conditions as a means of resolving the problem.

During the course of the Licensee's presentation, Mrs Searle made reference to a representation from her legal adviser and requested that this be taken account of during the course of the proceedings. Following advice from the Council's legal representative, the Chairman called a short adjournment to the meeting to enable copies to be circulated and read by all the relevant parties.

Mrs Searle gave a lengthy presentation and highlighted that some of the problems had arisen due to the conflicting legal advice she had received and her lack of experience. She maintained that both herself and Mr Parker

were suitable management material to run Seafish Café Bar and steps had been taken to address their inexperience. She was pulling in expertise to help with the running of the business and the Music Venue Trust had agreed to work with them to put together a manual relating to licensing matters and sound breaking out of the premises.

Following detailed questions and answers from all sides, the Subcommittee, together with the Council's legal representative, then retired from the meeting to consider its decision.

On the meeting being reconvened, the Chairman read out the following statement:-

"The Members were asked to consider a review application in respect of The Seafish, Aldwick Road, Bognor Regis. The premises had originally been licensed predominantly for use as a restaurant and was subject to conditions which related to a food led premises. The current management took over the premises in the summer of 2016 and the premises were redirected towards a music led venue but which was still subject to the original conditions. Members were satisfied that both the Council and the Police had endeavoured to work with the management to change the licence so that it was more suited to this new music led premises. The Members accepted that both the Police and the Council had been unable to meaningfully engage with the management because they were reluctant to accept advice. The Members accepted, on balance, that Police and Council had no confidence in the management of the premises to meet the licensing objectives.

The Members heard evidence from Sussex Police that during several police visits people appeared to be consuming alcohol in breach of the conditions in relation to its association with table meals. On balance, Members accepted the evidence of the police officers that breaches of licence conditions had occurred during the visits recorded by police video and further accepted observations made by Council officers within the submissions that alcohol was being sold without the service of table meals. This demonstrated a propensity on the part of the management that there was little regard for the conditions attached to the premises licence.

It was submitted in evidence by the Environmental Health Department that, following ongoing complaints by local residents, noise monitoring had been conducted throughout the summer of 2016. That monitoring had resulted in the service of an abatement notice under the Environmental Protection Act 1990 to abate nuisance caused by live music. The Members were satisfied, on balance, that this notice was compelling evidence of ongoing noise nuisance during live music. In submission, it was said that matters had improved in recent weeks but, on balance, Members were satisfied those improvements had been influenced by the review process and the changing in the weather towards winter. There appeared to be little or no evidence that any form of attenuation works or noise limiting measures to control noise escape had been put in place other than the management's self-policing via a mobile phone app. The Members were satisfied that the licensing objective for public nuisance was being undermined.

The Members considered whether any further conditions could be imposed to assist in the prevention of further breaches of the licensing objectives but they were satisfied that the evidence of the various licensing breaches and public nuisance could only be resolved by revocation of the licence.

It is the decision of the Subcommittee that the licence is revoked.

Following thorough consideration of the matter, the Subcommittee

RESOLVED

That the licence be revoked.

(The hearing concluded at 13.37 pm)

Signed Chairman