

Licensing Subcommittee

2 May 2018 at 9.40 am

Present:- Councillors Cates, Wheal and Warren

Glenn James & Andrew
Burrows

Licensing Officer

Andy Eaton
April Heasman

Applicant

Solicitor

Lawyer (Observing for training
purposes)

1. Election of Chairman

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

2. Declarations of Interest

There were no Declarations of Interest made.

3. Exempt Business

The Subcommittee

RESOLVED

That under Section 100A(4) of the Local government Act 1972, the public and accredited representatives of newspapers be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act by virtue of the paragraph specified against the item.4.

4. Application for a Hackney Carriage/Private Hire Driver Licence [Exempt – Paragraph 1 – Information Relating to Individuals]

The Licensing Officer presented this report which outlined the detail of a case of an application for a licence to drive a Hackney Carriage/Private Hire Vehicle where the applicant had been the subject of an offence in another country. Prior to the application process being completed, the matter was being placed before Members for determination as to whether it should proceed.

The Applicant was in attendance and advised on the circumstances of the incident and, following questions from Members, which were responded to at the meeting, all parties left the meeting to enable the Subcommittee to consider the matter.

Following consideration, the Subcommittee

RESOLVED

That the licence be granted, subject to the DBS (Disclosure & Barring Service) check, knowledge test and medical and driving assessment being completed to the satisfaction of officers.

All parties were then recalled and advised of the decision.

The meeting then moved back into open session.

5. Licensing Act 2003, S51 Application for Review of a Premises Licence – TAO – Sladebars Ltd, High Street, Bognor Regis

Present:- Councillors Cates, Wheal and Warren

Andrew Burrows	Licensing Officer
Daniel Slade	Premises Licence Holder
Jeremy Cook	Barrister for PLH
Responsible Authorities:-	
Peter Saville	Counsel for Police
PC Phelps	Licensing Officer for Police
Sarah Meeten	Licensing Manager for Licensing Authority
Nick Howard	Senior Environmental Health Officer
Fiona Fitzgerald	Senior Environmental Health Officer
Andy Eaton	Solicitor
April Heasman	Lawyer (observing for training purposes)

Immediately prior to commencement of the hearing, the Police and Responsible Authorities had met with the Premises Licence Holder (PLH) to discuss a possible way forward in order to dispense with the need for a formal hearing. No agreement had been reached.

On the hearing being convened, the Chairman requested those in attendance to introduce themselves and 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. He advised that a laid down procedure would be followed to enable all parties to present their case for Members' consideration.

On behalf of the PLH, his Barrister, Mr Cook, requested an adjournment as Mr Slade was of the view that he was now complying with all the conditions attached to the licence and he had provided the outstanding Noise Management Plan and a revised Risk Assessment to all parties. In response, the Police stated the Risk Assessment documents had only been provided on 30 April, the Noise Management Plan was still outstanding and that, given the promises and assurances previously made, they were not prepared to agree to an adjournment at this late stage. The Licensing Authority and Environmental Health were in agreement, particularly as the previous weekend further breaches of noise levels had been witnessed by the authority.

The Subcommittee retired to consider the application for an adjournment and, in the course of their deliberations, were of the view that the PLH had had an opportunity to invite officers and the Police to inspect the stated improvements in the two days prior to the hearing but had chosen instead to announce at the hearing that the improvements were in place, with no further evidence provided. The application for an adjournment was therefore refused.

On the hearing being reconvened, the Licensing Officer presented a report which set out the detail of a Review Application from Sussex Police for the Premises Licence for Tao, High Street, Bognor Regis, following licensing inspections that had been undertaken at the premises between January to April 2018. All relevant parties had been circulated with additional documentation which constituted extensive evidence from the Police and included representation from the Arun District Council Licensing Authority and Environmental Health setting out their concerns that the Licensing Objectives were being seriously undermined.

Counsel for the Police advised that the licence for Tao had been granted in June 2016 with conditions based on an application for a food led premises but that, since its opening in December 2017, there was still no fully operational kitchen and only drinks were being served with snacks, a clear breach of conditions. Initially 15 breaches had been identified and, whilst these had now reduced to 9, there was still significant concern. It was felt that a disproportionate amount of officer time had been spent in dealing with the PLH, who did not seem able to take on board what was required of him to get the premises operating in line with the conditions imposed on the licence.

The Environmental Health Officers addressed the Subcommittee and advised on the noise issues that local residents had been complaining about over several months. Excessive noise had been evidenced by several out of hours inspections and a Noise Abatement Notice had been served on the PLH on 23 April 2018. Details were also provided by the officers regarding a Community Protection Notice warning letter that had been issued with regard to the noise caused by patrons congregating outside the venue, which had created a level of nuisance that was deemed unacceptable.

The meeting also heard that the installation of the kitchen had been delayed significantly and still lacked an extraction system that would permit the frying and grilling of food in compliance with the conditions on the

licence. Allowances had been made to permit the PLH to provide an interim menu that did not involve full cooking but that could not be considered to be suitable for the long term as substantial food provision was felt to be a fundamental requirement under the conditions of the licence.

The Licensing Manager then reiterated the steps that had been taken to assist the PLH to adhere to the conditions that he had agreed to. Several attempts had been made to meet and advise him on problems at the premises but little had been achieved in any meaningful way to resolve the issues.

The PLH responded to the submission made by the Police and Responsible Authorities both through his Counsel and directly himself. He felt that the problems had arisen through his own naivety and over-confidence in setting up the business in terms of time, effort and money which had resulted in his opening before he was ready in order to generate income to offset the financial pressure he was under. He stated that he fully intended to operate a food led establishment but the costs of providing a commercial kitchen were substantially more than he had anticipated. He accepted that officers had spent a lot of time with him and he felt that he was now compliant with the conditions and that he would do everything possible to resolve the noise nuisance issues. He hoped that his hours of operation would not be restricted and he assured Members that his intention with this venture had always been to provide a bar/eatery/entertainment venue and not a nightclub, as had been suggested by the Police.

In line with the procedure, questions were asked of all participants and these were responded to at the meeting. The Subcommittee then retired from the meeting, together with the Council's Solicitor, to deliberate the representations from all parties and then consider its decision.

On reconvening the meeting, the Chairman advised all those in attendance that, due to the length of time the hearing had already taken and in order to allow proper consideration of all the issues raised, the Subcommittee would not be issuing a decision today but that would be notified to all parties within the statutory 5 day period, as set out in the Decision Notice that would be issued.

Subsequently, and for the benefit of the Minutes, the Subcommittee

RESOLVED

That the PLH be permitted to continue to operate but that the following additional conditions be attached to the Premises Licence:-

- (1) A noise limiting device shall be fitted to the premises sound system to the satisfaction of the council's environmental health officer and set at a level that is inaudible inside the nearest domestic residence in the High Street, Bognor Regis, and that the level is then fixed and locked to ensure it is incapable of being altered other than by the

premises licence holder. All amplified music at the premises shall be played through the noise limiting device.

(2) An appropriate noise assessment report shall be undertaken by a recognised qualified acoustic consultant within 14 days on noise attenuation properties at the premises, and that any recommendation within the report be carried out within one month of the date of the report. The report is to be copied Environmental Health immediately on receipt by the premises licence holder and the schedule of recommended works is to be provided to Environmental Health before commencement of the required works.

(3) No more than ten customers shall be permitted to congregate outside the front of the premises after 11pm. Customers being permitted to congregate for the purposes of smoking only.

(4) The kitchen shall be fitted with an appropriate odour extraction system within 28 days to facilitate the preparation of fried and grilled substantial food, not snacks.

Reason: To restore the promotion of the four Licensing Objectives.

(The hearing concluded at 2.30 p.m.)

Signed.....Chairman