

# ARUN DISTRICT COUNCIL

## REPORT TO AND DECISION OF ARUN DISTRICT COUNCIL LICENSING SUB-COMMITTEE ON 6 MARCH 2023

### **SUBJECT:**

Licensing Act 2003 S51 Application for review of a premises licence

**REPORT AUTHOR:** Louise Dewberry – Licensing Officer

**DATE:** 14 February 2023

**EXTN:** 01903 737780

**AREA:** DIRECTORATE Growth.

### **EXECUTIVE SUMMARY:**

The Authority is in receipt of an application to review a premises licence for a premises known as The Fox Inn, Arundel Road, Patching, Worthing, West Sussex BN13 3UJ

The application is from Environmental Health Service, Arun District Council, a responsible authority, who contend that the licensing objectives of the Prevention of Public nuisance has been undermined (**Appendix A**)

Supporting representations in this matter have been made by Arun District Council acting as the Licensing Authority, a responsible authority, on the grounds of the Prevention of Public nuisance. (**Appendix B**)

### **RECOMMENDATIONS:**

The Sub-Committee should make an evidence-based determination, justified as being appropriate for the promotion of the licensing objectives.

The Sub-Committee may only consider matters referred to in representations relevant to the promotion of one or more of the four licensing objectives. These must be considered in the context of what is relevant to the review application.

### **1. BACKGROUND:**

#### **1. BACKGROUND**

1.1 This is an application for a review of a premises licence which has been received from Arun District Council, Environmental Health Service, a Responsible Authority. (**Appendix A**)

1.2 The Fox Inn is a public house located on Arundel Road, Patching, Worthing, BN13 3UJ. The premises is licensed to sell and supply alcohol for consumption

on and off the premises, under the provisions of the Licensing Act 2003.

- 1.3 The Premises Licence Holder for The Fox Inn is S&S@The Fox, Patching Ltd. Mr S Boxall and Ms S Murphy are the directors of the company and Ms S. Murphy is the Designated Premises Supervisor for the premises.
- 1.4 March 2022 - A complaint was received from a member of the public alleging noise nuisance from a party (including loud music and people noise) being held in the marquee at the Fox Inn. Investigations into the allegation continued over the summer.
- 1.5 September 2022 - sufficient evidence had been gathered to satisfy Officer's that a statutory nuisance had occurred and was likely to recur and a Noise Abatement Notice was served on the 12 September 2022 requiring the license holder to abate the nuisance caused by noise from amplified music and voices and thereafter neither to cause, permit or otherwise allow its recurrence. Complaints continued and further investigations were carried out.
- 1.6 December 2022 - The noise abatement notice was witnessed being breached on four separate occasions. An officer visited and noted loud recorded music in the marquee at a level to be a nuisance on the 2nd and 9th December 2022.
- 1.7 Additionally, recordings made on Council noise equipment also showed loud music on those dates. On the 10th of December 2022 recordings made on Council noise equipment showed amplified voices in the form of football commentary and shouting and cheering by customers as well as loud amplified music at a level to be a nuisance.
- 1.8 On the 15th of December 2022 recordings made on Council noise equipment showed amplified voices in the form of announcements by the host of the event and a raffle as well as loud amplified music at a level to be a nuisance. It should also be noted that the premises licence only permits the use of the marquee for licensable activities between the 1st of April and 31st October and for pre booked functions only. It is argued that the repeated breach of the noise abatement notice is a breach of the licensing objective to prevent public nuisance and the licensee has failed in their responsibility to promote this licensing objective.
- 1.9 Sound recordings from council noise equipment will be available and can be heard at the hearing.

## **2.0 RELEVANT REPRESENTATIONS**

- 2.1 The application for a review by Environmental Health Services is at **Appendix A**. The grounds for seeking the review are the prevention of public nuisance.
- 2.2 Details of the relevant representations from Arun District Council Licensing are at **Appendix B**. The grounds for making representations are the prevention of public nuisance.
- 2.3 Details of relevant representations from members of the public within the Patching and Arundel areas of the district are at **Appendix C**, however please

note that some items mentioned within the representations are not relevant and should be discounted.

2.4 Comments have been received via email from Mr S Boxall explaining his reasons for using the marquee are at **Appendix D**

2.5 The authority has received comments in support of the premises these will be available for the Licensing Sub Committee if requested on the day.

### **3. ARUN DISTRICT COUNCIL POLICY CONSIDERATIONS**

3.1 Relevant extracts from Arun District Council's Licensing Principles are shown in this section.

(5.1) The main principles of the policy are: -

- to reduce the fear of crime.
- to encourage cultural diversity and lively, safe town centres.
- to reduce the burden of unnecessary regulation on business.
- to contribute to the quality of life.
- to promote public health.
- to ensure that premises are being managed responsibly.
- to ensure the promotion of the licensing objectives

(5.2) The Policy is also intended to ensure that the provision of additional opportunities for licensable activities are matched by appropriate and proportional measures enabling the police and licensing authorities to act promptly to maintain public order and safety.

(Appendix 3 – Licence Review Guidelines)

The Licensing Committee and any of its Sub-Committees, when holding licence review hearings, will follow these guidelines so as to maintain a degree of consistency and transparency when making decisions. The Committee reserves the right to amend and republish these guidelines in light of operational experience and as a separate document to the statement of licensing policy. In reaching a decision the committee will take into account any of the aggravating or mitigating factors below but may also consider other relevant evidence before them. Likewise, they can consider any other proportionate and appropriate action as allowed under the Licensing Act 2003. Section 182 guidance will also be considered in conjunction with this policy.

<b>Relevant representation regarding the Prevention of Public Nuisance</b>	
Aggravating factors	Mitigating Factors

<p>Noise late at night (especially if in breach of any condition)</p> <p>Previous warnings ignored</p> <p>Long and prolonged disturbance</p> <p>Poor procedures and controls for preventing (as far as is reasonably practicable) 'off premises' disturbance from customers leaving the premises/event</p> <p>Excessive nuisance emanating from premises during unsocial hours</p> <p>Litter problems (especially if in breach of any condition)</p>	<p>Noise limiting device installed</p> <p>Appropriate apology given to those disturbed by nuisance and nuisance subsequently ceased</p> <p>Complaints telephone/hotline available and communicated to complainants</p> <p>Short-term disturbance</p> <p>Undertaking/commitment not to repeat activity leading to disturbance</p> <p>Willingness to attend and cooperate during mediation steps</p> <p>Good controls, practices and training in place</p> <p>Voluntary acceptance/proposal of additional conditions by way of formal change to licence/certificate</p>
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**APPENDICES:**

- A: Application for a review Environmental Health Services.
- B: Representation from the Licensing Authority acting as a responsible authority
- C: Representation from members of the public.
- D: Comments from S Boxall.
- E: Copy of Licence.
- F: Map of Area.
- G: Evidence Bundle

**Background Papers:**

- Licensing Act 2003
- Section 182 Guidance
- Arun Statement of Licensing Policy

**PROPOSAL(S):****4.0      OBSERVATIONS**

4.1      The Sub Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- Public Safety
- The Protection of Children from Harm

4.2      In making its decision the Sub Committee is also obliged to have regard to national guidance and Arun's Statement of Licensing Policy.

4.3      The Sub Committee must also have regard to all relevant representations and evidence that it hears.

**OPTIONS:**

**5**      The Committee may:

- a) Revoke the premises licence
- b) Suspend the licence for a period not exceeding three months
- c) Remove the Designated Premises Supervisor
- d) Modify the conditions of the licence
- e) Take no further action

**6. CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council	x	
Relevant District Ward Councillors	x	
Other groups/persons (please specify)	x	
7. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		x
Legal	x	
Human Rights/Equality Impact Assessment		x
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability		x
Asset Management/Property/Land		x
Technology		x
Other (please explain)		x

**8. IMPLICATIONS:**

Any decision made by the Licensing Sub-Committee can be appealed to the Magistrates Court

**9. REASON FOR THE DECISION:**

**10. BACKGROUND PAPERS:**

- A: Application for a review Environmental Health Services.
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