



## Lewes District Council

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### Licensing Sub-Committee

**Minutes** of a meeting of the **Licensing Sub-Committee** held in the **Warren Room, Lewes House, 32 High Street, Lewes** on **Monday, 2 July 2012** at 10.00am

**Present:**

Councillor P A Howson (Chair on election)  
Councillors J M Harrison-Hicks and J Stockdale

**Officers Present:**

Ms A Blanshard, Committee Officer  
Mr G Clark, Licensing Officer  
Ms J Fletcher, Solicitor  
Ms S Lindsey, Assistant Licensing Officer

**Applicant Attending:**

Mrs C King, A & C Catering  
Mr D Simmonds, Licensing Consultant

**Representor Attending:**

Ms K Joyce, Villandry Property Ltd

	<b>Minutes</b>	<b>Action</b>
<b>1</b>	<b>Election of Chair of the Sub-Committee</b>  <u>Resolved:</u>  <b>1.1</b> That Councillor P A Howson be elected Chair of the Sub-Committee for this meeting.	
<b>2</b>	<b>Application for the Variation of a Premises Licence for The Captain's Table, Villandry, West Quay, Newhaven BN9 9BE</b>  The Chair of the Sub-Committee welcomed all parties to the hearing. Those attending introduced themselves and the procedure, under the Licensing Act 2003, was read out to all parties present.  The Sub-Committee considered Report No 103/12 to determine the Application for the Variation of a Premises Licence for The Captain's Table, Villandry, West Quay, Newhaven BN9 9BE.  The Licensing Officer presented the Report to the Sub-Committee.	

The Application related specifically to:

- The variation of the café/bar condition on the licence to allow limited stand up drinking in the vicinity of the bar area at the front of the premises.
- The removal of the requirement for waiter/waitress service within the premises but to retain this condition for service outside on the patio area at all times.
- The approval of amended plans to the bar which had been altered to permit access on two sides.

The Captain's Table was a purpose built single storey retail unit situated beneath and at one end of a modern apartment complex on the West Quay at Newhaven. It had an outside walled patio area for customer use and there were other retail units alongside, including an angling shop, a convenience store and an off-licence. The retail units were set back from the road with an area in front for vehicle parking and access to the various premises. Above the retail units was residential accommodation and the front of Villandry was on Fort Road and directly opposite the Harbourside Inn. Further down West Quay marina towards the river were three large additional apartment blocks all of which formed part of the Cape development at the marina and the regeneration of this area.

The Captain's Table was an all day café serving breakfast and customary main meals together with a wide range of other substantial food, snacks and soft drinks including tea and coffee. It had been open since March 2009 having been purchased by the Applicants and had been fully furnished with a counter for service and food display, tables and chairs and an outside area with patio tables and chairs. To the front of the premises, adjacent to the entrance, was a small purpose built bar for the service of alcohol which permitted limited stand up drinking. The premises could cater for approximately thirty covers inside and an additional thirty covers outside, weather permitting. It currently traded Monday to Sunday 7am to 5pm or later. To enhance customer choice it now wished to vary the conditions to allow the supply of alcohol to customers at the bar and to retain waiter/waitress service to the outside area at all times. Substantial food would be available throughout the opening hours.

Since the premises opened in March 2009 there had been one complaint of noise or public nuisance from a resident at Villandry concerning two customers at the premises remaining outside after closing.

As a result of the Licensing Officer visiting the premises at 3.30pm on 20 April 2012 it was observed that approximately four customers were sitting on stools round the bar drinking. The Designated Premises Supervisor Mrs King was informed that the conditions on the licence did not allow this type of service and that it only permitted for waiter/waitress service to customers seated at tables under the current café bar conditions. She was advised

that in order to change the operating profile of the premises to allow drinking at the bar, a full premises licence variation would be required.

On 9 May 2012 Assistant Licensing Officer Susan Lindsey visited The Captain's Table and observed from outside that there were at least six customers seated on stools and some standing at the bar in the premises. She did not enter the premises but from her observations the customers all appeared to be drinking.

A letter was sent to Mrs King by the Licensing Officer on 10 May 2012 giving a final warning concerning the management of the premises and the breach of the licence conditions. A copy of this letter was contained in Appendix 1 to the Report.

On 3 June 2012 a temporary event notice for the Jubilee celebrations was in force for the premises covering the supply of alcohol and regulated entertainment until 9pm that evening. The Council's noise and licensing patrol on duty that night visited the Captain's Table at 10.45pm and observed that there were six people inside the premises, both sitting and standing at the bar, who all appeared to be drinking. This was outside of the time limit permitted by the temporary event notice and accordingly the supply of alcohol at the bar would have been in contravention of the café bar condition attached to the licence.

The Licensing Officer had concerns about the management of the premises and the supervision by the Designated Premises Supervisor Mrs King to ensure the existing licence conditions were being complied with at all times. There had been a verbal and written warning given by the Licensing Officer and despite this there had been a further breach of the conditions witnessed by Council Officers on 3 June 2012.

The Licensing Officer explained that there had been no representations received from the responsible authorities.

Two letters and two emails received within the relevant 28 day notice period for representations about the application by The Captain's Table were attached in Appendix 2. There were three representations from residents occupying the flats above the premises at Villandry and one further representation from Mayo Wynne Baxter Solicitors on behalf of Villandry Property Ltd.

The grounds for their objections were that the application would undermine one or more of the licensing objectives related to crime and disorder and public nuisance. The objections were considered to be relevant to the application and not frivolous or vexatious.

The Licensing Officer advised that it was important for the Sub-Committee to note section 4.6 of the Report. Licensing Policy stated that, in each case that arose following representations, the Council would consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the

business involved and the rights of local residents to peace and quiet. The Council would also examine the potential steps which could be taken to reduce the risk of public nuisance, crime and/or danger to public safety, particularly in areas of dense residential accommodation.

The Sub-Committee expressed its thanks to the Licensing Officer for providing a comprehensive Report. All parties present confirmed that they had no questions to ask the Licensing Officer regarding the Report.

Mr Simmonds, Representative of the Applicant, stated that:

- The application was for a variation on the existing premises licence, to which there had been no objections by the relevant authorities and that there were no anticipated problems.
- Inside the premises there was a commitment to having at least forty covers at all times, there was no intention to turn the premises into a bar.
- One of the reasons for seeking the variation to the licence was so that a few customers could be allowed to sit on the stools at the bar and stand in the vicinity. As food was available for the entire opening hours of the premises, it was likely that some of those sitting at the bar would chose to eat there too. The Applicants hope was that the variation in licence would allow them flexibility.
- There was no change sought to the terms of the licence regarding the outside area, this would remain a waiter/waitress service as it was currently.
- That the Applicant was seeking agreement to the changes that had been made to the bar area.

Mr Simmonds addressed each respondents' letter, shown in Appendix 2, making the following specific points:

- There was nothing in the application that would affect the conditions relating to the protection of children from harm.
- The suggestion that altercations outside of the premises were connected to the premises were not fair, the police had not been called to the premises.
- The children apparently causing noise and nuisance could not certainly be connected with the customers to the premises. It was an attractive area that was ideal for play. The Applicant had always ensured that staff advised customers about their childrens' behaviour. It was more likely a problem in the general area and not specific to the premises.

- The Applicant was available on the premises; she rented a flat above, and had done so for three years, and used it to ensure that she was in day-to-day control.
- The second respondent lived along the road from the premises and not directly above. There had only ever been one noise complaint about the Captain's Table and the problems the respondent was suffering in terms of noise were not from the premises. There was no regulated entertainment on the premises and the only night there had been music was on the occasion of the Queens Diamond Jubilee, for which the Applicant had a Temporary Event Notice (TEN).
- The response from Mayo Wynne Baxter, on behalf of Villandry Property Limited, was concerned more about planning issues surrounding the lease rather than those relevant to the variations sought on the licence, and that these issues were not for discussion at the hearing.

Mr Simmonds advised that the problems raised by the Licensing Officer in his letter, shown in Appendix 1, were being addressed by the Applicant with the assistance of the Licensing department.

The Applicant had been retraining her staff, which included sending some of them on British Institute of Innkeepers courses and Management training. There had been new décor and changes to the menu. Although breakfasts were still being served the focus of the menu had changed towards Italian food.

Mr Simmonds also advised that it was not unreasonable of the Licensing Officer to draw attention to the problems that had occurred, but it was hoped that the Applicant had been addressing them with the changes that had been made.

Mr Simmonds asked that the Sub-Committee consider and grant the variations to the licence.

Ms Joyce, attending on behalf of the Representors, explained that they were thrilled that the premises had changed to an Italian restaurant and that the noise and nuisance issues had improved dramatically even though it had only been functioning as an Italian restaurant for a week.

In response to a question from the Sub-Committee, the Applicant explained that there had been some confusion around the TEN on the night of the Queens Diamond Jubilee. The band had stopped at 8pm, but there had been concerning the time limit permitted by the TEN.

In response to a question from the Sub-Committee, Mr Simmonds explained that there was never music played in the outside patio area, there was background music inside the premises, but the only time there had ever been any regulated entertainment was the night when the premises

had a TEN.

In response to a question from the Sub-Committee, Mrs Joyce explained that there seemed to be greater control at the premises and that the potential problems would be if people were outside drinking, smoking and swearing.

To summarise, on behalf of the Applicant, Mr Simmonds stated that the Applicant was seeking a simple change to the conditions of the licence but that the serving of food would remain the central purpose of the premises.

The Sub-Committee withdrew to consider the Application. The decision was delivered as follows:

Resolved:

“Having regard to the terms of the application and all of the relevant evidence that has been put before us today; we have decided to deal with this application by GRANTING the application in its entirety subject to the conditions set out in the Licensing Officer’s Report which includes amended and additional conditions agreed by the Applicant.

In reaching our decision, we took into account all the representations and submissions that were made. We also took into account the nature and location of the premises.

We considered the potential for: public nuisance, crime and disorder and the harm to children posed by the application and balanced this against the rights of local residents to peace and quiet.

We have had particular regard to objections and e-mails by the residents and the presentation made by the Applicant.

We also gave full consideration to the relevant terms of the Statutory Guidance as well as our own Standard Licensing Policy.

A written notification of the decision will be despatched in due course.

Furthermore, we would like to remind those present that under 51(1) of the Licensing Act 2003, an interested party or responsible authority may apply to the Licensing Authority at any time for a licence to be reviewed.

In any event, there is a right of appeal under the provisions of section 181 and schedule 5 of the Licensing Act 2003 against the decision of the Licensing Committee, should you be aggrieved at the outcome. This right to appeal extends to the Applicant in the case of refusal or restrictions on the licence or imposition of conditions to the licence. The right of appeal also extends to persons who have made representations either where the licence has been granted or, where they do not consider that relevant conditions have been imposed.

Full details of the right to appeal can be found within schedule 5 of the Act.

Please note that any appeal must be made within 21 days of the notification of this decision.”

The Chair concluded the hearing by thanking all those present for attending.

The meeting ended at 11.10am

P A Howson  
Chair