



Licensing Committee

Minutes of a meeting of the **Licensing Sub-Committee** held in the **Warren Room, Lewes House, High Street, Lewes** on **Wednesday, 14 June 2017** at 10:00am

Present:

Councillor I Linington (Chair on election)
Councillors S Adeniji and J Harrison-Hicks

Officers Present:

M Moss, Licensing Officer
J Norman, Committee Officer
M Wilkinson, Housing & Regulatory Lawyer

Applicants Representatives Attending:

J Irving, Head of Licensing & Public Safety, Sussex Police
P Savill, Barrister
Police Sergeant Vokins, East Sussex Licensing Team, Sussex Police

Representors:

S Brumwell, Proprietor of The Kings Head, Seaford
D Lewis-Hall, Barrister

In Attendance:

Police Constable Rush, East Sussex Licensing Team, Sussex Police
M Pickin, Department of Public Health, East Sussex County Council
R Willis, Designated Premises Supervisor, The Kings Head

Also present:

Eight members of the public

	Minutes	Action
1	Election of Chair of the Committee	

Resolved:

- 1.1 That Councillor Linington be elected Chair of the Sub-Committee for this hearing.

2 Application for Review to the Premises Licence for The Kings Head (formerly known as Bay Tree Inn), Pelham Road, Seaford, East Sussex, BN25 1EP

The Chair of the Sub-Committee welcomed all parties to the hearing. Those attending introduced themselves and the procedure to be followed was read out to all parties who were present.

The Sub-Committee considered Report No 77/17 to determine the Application for Review to the Premises Licence for The Kings Head (formerly known as Bay Tree Inn), Pelham Road, Seaford, East Sussex BN25 1EP.

The Licensing Officer presented the Report to the Sub-Committee.

The Licensing Officer highlighted that on 10th May 2017, the premises known as The Bay Tree Inn was relaunched under the new name 'The Kings Head', and that both names may be referred to during the hearing.

The Licensing Officer explained that the Police submitted a Review Application on 21st April 2017 and the evidence bundles referred to in Appendices 3 to 6 on pages 54 to 225 of the Report were provided to Lewes District Council and the Premises Licence Holder on 18th May 2017.

In its Review Application, Sussex Police contend that the following three licensing objectives were undermined by the carrying on of licensable and unlicensable activities at The Kings Head:

- Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance

A significant incident of concern to Sussex Police was that The Kings Head was open and undertaking licensable activity, without any door staff present. This was a breach of condition 16 of the Premises Licence which was added by the Licensing Sub-Committee at a previous Review Hearing on 20 October 2016, as a result of the Sub-Committee's concerns in relation to the safety of customers within the premises.

The members of the Sub-Committee and all parties present confirmed that they had no questions to ask the Licensing Officer regarding the Report.

The Sub-Committee invited Mr Savill, Barrister, to present the case on behalf of Sussex Police.

Mr Savill brought the Committee's attention to Appendix 1 on pages 10 to 51 of the Report, which detailed the review application form submitted by Sussex Police. In addition, he noted the sizeable bundle of evidence submitted by Sussex Police detailed in Appendices 3 to 6 on pages 54 to 225 of the Report.

Mr Savill noted that Sussex Police did not disagree with the decision of the Sub-Committee in regards to the hearing to consider the Application for Review to the Premises Licence for The Bay Tree Inn on 20 October 2016. He stated they were concerned, however, that a second review application was needed so soon afterwards, which was highly unusual.

Mr Savill explained that the second review application which related to The Kings Head was submitted to Lewes District Council on behalf of Sussex Police directly as a result of the decision of the Sub-Committee on 20 October 2016 not being complied with. He further explained that Sussex Police were very concerned about The Kings Head's failure to comply with the conditions set out in the decision of the Sub-Committee, and they requested that the Premises Licence of The Kings Head be revoked for the safety of all those involved.

Mr Savill highlighted that although the former Designated Premises Supervisor (DPS), Mr Glen Burvill, was removed from his role, conditions set out in the decision of the Sub-Committee continued to be breached. Sussex Police asserted that the current DPS, Mr Willis, began his role on 25 October 2016, and despite a new DPS being in place, the problems at the premises still persisted.

He stated that there had been a breach of the CCTV condition. Mr Savill also explained that Sussex Police were extremely concerned about the drug swabs taken at the premises as detailed in paragraph 10 on pages 20 to 21 of the Report. He further explained that, although The Kings Head were required to implement a drug policy as part of the conditions of the decision by the Sub-Committee on 20 October 2016, the Police did not receive a copy of the premises drugs policy until 13 February 2017. Sussex Police stated that The Kings Head's failure to comply with the Premises Licence is a criminal offence.

On behalf of Sussex Police, Mr Savill explained that given the seriousness of the case presented and The Kings Head's failure to comply with the Licensing Sub-Committee's decision on 20 October 2016 within the required timeframe, revocation of the Premises Licence was the most suitable course of action.

The Chair of the Sub-Committee invited all parties present, followed by members of the Sub-Committee, to ask the Applicant questions regarding its application.

The Sub-Committee invited Mr Lewis-Hall, Barrister, to present the case on behalf of the Premises Licence Holder, Mr Brumwell, who is the proprietor of The Kings Head, Seaford.

Mr Lewis-Hall confirmed that all parties present had received a copy of the position statement on behalf of the Premises Licence Holder. In addition, he sought permission from the Sub-Committee and Mr Savill to submit a letter on behalf of the Premises Licence Holder, Mr Brumwell, into evidence.

The Sub-Committee adjourned at 11:47am.

The Sub-Committee reconvened at 11:57am.

Mr Savill confirmed to the Sub-Committee and all parties present that he accepted the letter submitted by Mr Lewis-Hall on behalf of the Premises Licence Holder.

Mr Lewis-Hall explained to the Sub-Committee that the contents of the letter detailed correspondence with the CCTV provider for The Kings Head. The letter explained that the failure of The Kings Head to comply with the CCTV conditions was due to a technical issue and not as a result of the fault of the Premises Licence Holder.

Mr Lewis-Hall informed the Sub-Committee that the former DPS, Mr Burvill, had been officially removed and accepted that Mr Brumwell had put too much faith in Mr Burvill, which resulted in the review applications made by Sussex Police to the Sub-Committee. He stated that it was regrettable that the matter wasn't dealt with sooner.

Mr Lewis-Hall explained that the previous DPS, Mr Burvill, took over operation of The Kings Head in March 2016, and that is when problems began. Those problems included noise complaints from neighbours, lack of proper door staff, drug use by customers and various other incidents as mentioned by Sussex Police in the two applications submitted to the Sub-Committee. He further explained that, although Mr Willis began his role on 25 October 2016, during that time Mr Burvill stayed on staff and continued to have a say in the day to day running of The Kings Head as he was the lease holder at that time. Since 8 May 2017, Mr Willis had immediately begun to implement changes to make sure The Kings Head fully complied with its Premises Licence.

Mr Lewis-Hall invited Ms Louise Fenner, a Seaford resident who has lived opposite The Kings Head for the last five years, to give a statement. Ms Fenner said that she's noticed a significant change since Mr Willis has become the DPS, noting that now the atmosphere seems more family friendly and that she now feels comfortable bringing her two year old to The Kings Head.

Mr Lewis-Hall invited Mr Brumwell to give a statement. Mr Brumwell accepted that mistakes were made in the past because he put his trust in

Mr Burvill. He further explained that he had faith that there would continue to be positive improvements going forward as a result of Mr Willis being the manager.

The Sub-Committee queried if Mr Burvill is still consulted on any matter dealing with The Kings Head, despite being removed as DPS. Mr Willis clarified that Mr Burvill was no longer the lease holder and as such, he has had no further involvement with operations at The Kings Head.

The Sub-Committee queried what time The Kings Head was currently closing and if it was employing door staff. Mr Willis explained that The Kings Head stopped serving alcohol between the hours of 12:00am to 12:30am, and that the premises has not been open past 1:00am. In addition, The Kings Head does employ door staff through the SIA.

The Sub-Committee queried as to why it took so long to remove Mr Burvill as the DPS. Mr Willis explained that it was due to Mr Burvill being the lease holder of The Kings Head. Although Mr Burvill was removed as the DPS, he was still the lease holder and was involved in day to day operations at the premises until 8 May 2017.

The Sub-Committee invited all parties present to ask the Applicant questions regarding its application.

The Sub-Committee invited both the applicant's representatives and the representative of the representor to give their closing statements.

Mr Savill summarised the case made by the applicant, Sussex Police. Mr Lewis-Hall summarised the case made by the Premises Licence Holder, Mr Brumwell.

The Chair thanked all those who had addressed the Sub-Committee. The Housing and Regulatory Lawyer confirmed that all of the written representations submitted, as set out in Appendix 7 of the Report, would be taken into consideration by the Sub-Committee when determining the Application.

The Sub-Committee adjourned for a short period at this point.

The Sub-Committee withdrew to consider its decision, but decided that it would be unable to make the decision on the date of the hearing. The Housing and Regulatory Lawyer explained that all parties would receive written notification of the Sub-Committee's decision within the legal timescales.

The meeting ended at 11:50am.

The decision was delivered as follows:

Resolved:

“Application for a Review of the Premises Licence at The Kings Head (formerly known as the Bay Tree Inn), Pelham Rd, Seaford, East Sussex, BN25 1EP

The hearing concerned a review of the premises licence of The Kings Head (formerly known as the Bay Tree Inn).

In discharging its functions the Sub Committee considered the promotion of the four licensing objectives, the Council’s own Licensing Policy, the Home Office guidance and the rules of natural justice.

The Sub Committee considered the review application and associated documents from Sussex Police and their oral representations made at the hearing. It noted that the Police’s position was that the premises licence should be revoked on the basis that there had been a previous warning given to the premises licence holder by the Licensing Sub Committee on 20 October 2016 (on page 86 of the Report) and that it would be futile to impose further licensing conditions. Further, the Police referred to several incidents at the premises since the last review and in particular highlighted a serious breach of Condition 16 of the premises licence on 17/18 March 2017.

Due regard was also given to the written representations received from the Department of Public Health. The Sub Committee also noted the written representations of Ms Homewood Richardson who lives in the locality of the premises. Further the Sub Committee noted the written statement from Ms Lindsay of the Council’s Licensing Section.

In addition the Sub Committee considered the written and oral representations made on behalf of the premises licence holder. Those representations were that there had been a “new broom” approach since Mr Willis had taken over the management of the premises on 8 May 2017. The Sub Committee was informed that Mr Burvill had ceased to have any connection or relationship with the premises and the problems that had arisen since the last review were mainly attributable to him. It was noted that the plans are to make the premises a family friendly establishment with, for example, the introduction of food. The Sub Committee noted the supportive comments of Ms Fenner a local resident. It noted the proposal by the premises licence holder to reduce the licensing hours to midnight with a closing time of 12.30am. It was suggested that it would be draconian to revoke the licence and the Sub Committee were invited to look to the future rather than the past.

In its deliberations the Sub Committee considered whether it was appropriate and proportionate to take any of the steps as outlined in para.10 of the Report.

Decision

The Sub Committee resolved to suspend the premises licence for a period of five (5) weeks and to reduce all licensing hours on a Friday and Saturday to 12 midnight with a closing time of 12.30am (excluding those for live music which remain at 11.00pm).

Reasons for decision

The Sub Committee noted the previous warning given by this Sub Committee at the review hearing on 20 October 2016 and expressed their disappointment that a review application was back before it again.

The Sub Committee noted that it was accepted by the premises licence holder that there had been problems at the premises since the last review. The Sub Committee considered that the premises licence holder could have done more to address the problems.

The Sub Committee considered that it would be a disproportionate response to revoke the licence in light of the recent and proposed changes at the premises, which it considered were in the process of being addressed, and noted that a new stricter approach was being taken.

The Sub Committee, however, believed that a five week period of suspension was proportionate. It considered that would be a sufficient period within which the premises licence holder could implement the necessary changes and which in addition would act as a deterrent to any future problems at the premises.

The Sub Committee considered that the modification to the premises licence volunteered by the premises licence holder, i.e. the reduction to the licensing hours, was reasonable since the incidents complained of had largely occurred late at night.

The Sub Committee noted the proposal from the premises licence holder, outlined at paragraph 20 of the position statement of the premises licence holder presented to the Sub Committee, that the requirement for the SIA door staff be removed after a reasonable period. However, given the history of incidents at the premises the Sub Committee did not consider that to be a reasonable proposal and Condition 16 of the licence remains.

The Sub Committee warns the premises licence holder that should there be evidence of problems in the future relating to the premises then further serious measures would be necessary.

The Licensing Act provides a right of appeal to the Magistrates Court in respect of an application for a review of a premises licence. An appeal must

be commenced by notice of appeal being given by the appellant to the Magistrates Court within a period of 21 days beginning on the date the appellant was notified in writing of the decision of the Licensing Sub Committee.

The decision taken at this hearing will not have effect until the end of the period given for appealing against the decision or if the decision is appealed against until the time the appeal is disposed of.

This decision will be provided in writing to all parties within 5 working days of the hearing.”

I Linington
Chair