

**Agenda Item No: 4**

**Report No: 77/17**

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

**Report To: Licensing Sub-Committee**

**Date: 14 June 2017**

**Ward(s) Affected:** All Seaford wards

**Report By:** Ian Fitzpatrick: Director of Service Delivery

**Contact Officer(s):**

**Name(s):** Michael Moss

**Post Title(s):** Licensing Officer, Environmental Health

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## **1. The Application**

**1.1 Applicant:** Chief Inspector Emma Brice, Lewes and Wealden District Commander. Lewes Police Station, 6 North Street, Lewes, East Sussex BN7 2PA.

**1.2 Type of application:** Review of premises licence under Licensing Act 2003 called by Sussex Police who are a Responsible Authority. Review Application exhibited in **Appendix 1**

**1.3 Premises for Review:** The Kings Head (formerly The Bay Tree Inn) Public House, Pelham Road, Seaford, East Sussex BN25 1EP.

### **1.4 Licensing Objectives Subject of Review from Sussex Police:**

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

### **Licensing Objectives Subject of Review from other parties:**

- Prevention of public nuisance – Health Authority/ Local Resident
- Prevention of crime and disorder – Health Authority
- Public safety – Health Authority
- Protection of Children from harm – Health Authority

### **1.5 Grounds for Review:**

**1.5.1** The following details have been submitted by the applicant.

- 1.5.2** Sussex Police contend that the three licensing objectives they refer to have been undermined by the carrying on of licensable and unlicensable activities at The Kings Head Public House.

Since the Premises Licence Review Hearing in October 2016 (see Section 7 below), incidents have continued to take place either in, or associated with, the premises. These incidents are detailed in the Review Application exhibited as **Appendix 1**.

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

Sussex Police have no faith in the ability or willingness of the Premises Licence Holder (Steven Brumwell), nor in the existing Designated Premises Supervisor (Robert Willis) to promote the Licensing Objectives, as required under the Licensing Act 2003.

Taking into consideration the Secretary of State S182 Guidance, Sussex Police contend it would be ineffective to remove the Designated Premises Supervisor, and the imposition of further Premises Licence Conditions would also be futile. Sussex Police assert it is both proportionate and appropriate to request the Licensing Committee seriously consider revoking the Premises Licence.

## **1.6 Evidence from Sussex Police:**

- 1.6.1** The Evidence Bundles referred to in the Review Application were provided to Lewes District Council and the Premises Licence Holder by Sussex Police on 18th May 2017. A covering letter is exhibited as **Appendix 2**.
- 1.6.2** Sussex Police have submitted four Evidence Bundles to support the Review Application, which are exhibited as **Appendix 3** to **Appendix 6**
- 1.6.3** Further Evidence: Witness Statement from Hannah Elizabeth Rush of Sussex Police dated 18th May 2017; detailing information from an email received by the local resident in respects to Public Nuisance; exhibited in Appendix 6 Page 15.

## **2 Statutory Requirements:**

- 2.1** The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 prescribe that a Regulation 38 notice advertising the review is attached to the premises and on the Council's web site.

- 2.2 I, Michael Moss – Lewes District Council Licensing Officer, can confirm the notice has been properly displayed at the premises and it has been placed on the Lewes District Council web site for the statutory 28 day period from 22nd April 2017. A copy of the notice is exhibited in **Appendix 7**

### **3 Interested Parties:**

- 3.1 The Council received received within the relevant 28 day period one written representation which is considered relevant and not vexatious or frivolous, which is exhibited as **Appendix 8**.

### **4 Responsible Authorities:**

- 4.1 The following responsible authorities have been sent notification of the review application by Sussex Police and the response from the authorities concerned is as follows:

4.1.1	<u>Environmental Health:</u>	No comment.
4.1.2	<u>Fire Officer:</u>	No comment.
4.1.3	<u>ESCC – Child protection:</u>	No comment.
4.1.4	<u>Trading Standards:</u>	No comment.
4.1.5	<u>Health and Safety:</u>	No comment.
4.1.6	<u>Planning:</u>	No comment.
4.1.7	<u>Public Health:</u>	Representation made <b>Appendix 9</b>
4.1.8	<u>Licensing Section:</u>	Representation made <b>Appendix 10</b>

### **5. Correspondence from legal representative of The Kings Head (formerly The Bay Tree Inn):**

- 5.1 Letter from Barwells Solicitors on behalf of Steven Brumwell dated 12th May 2017 addressed to Sussex Police. A request was made for an extension to the consultation period starting from the date the Evidence Bundles will be provided by Sussex Police which was denied. A copy of these letters are exhibited as **Appendix 11**
- 5.2 Email from Barwells Solicitors on behalf of Steven Brumwell dated 18th May 2017 addressed to Sussex Police. Statement in response to the information provided by Sussex Police in their Review Application and requesting a meeting with Sussex Police; as of the date this report has been written the Council believes this issue has been settled between both parties. Details exhibited as **Appendix 12**

### **6. Reviewed Premises. The Kings Head (formerly The Bay Tree Inn)**

- 6.1 The Licensable Activities authorised at these premises are shown on the Premises Licence **Appendix 13**
- 6.2 Your attention is drawn to the fact that due to the implementation of the Live Music Act, and the Legislative Reform (Entertainment Licensing)

Order, Live Music and Recorded Music is no longer licensable at these premises between the hours of 8am and 11pm.

## **7 The Kings Head (formerly The Bay Tree Inn): Background Information**

- 7.1** Steven Brumwell has been the owner of The Kings Head Public House for almost 20 years. In November 2005 the Licence was converted and varied over to the Licensing Act 2003 from the Licensing Act 1964. Since this conversion, over 11 years ago, Mr Brumwell has been the Holder of the Licence and there have been a total of 9 different Designated Premises Supervisors, including Steven Brumwell and Robert Willis.
- 7.2** On 29th February 2016 Glenn Burvill became the Designated Premises Supervisor for the premises, then known as The Bay Tree Inn. During 2016 Sussex Police became increasingly concerned about a number of incidents connected with the premises and the management by both the Premises Licence Holder (Steven Brumwell) and the Designated Premises Supervisor (Glenn Burvill).
- 7.3** On 20th October 2016 there was a Review Hearing before the licensing Sub-Committee which resulted in the removal of the Designated Premises Supervisor (Glenn Burvill), a warning given to Steven Brumwell in relation to the management and conditions imposed on the Premises Licence; a copy of the Decision Notice is shown in Appendix 3 Evidence Bundle 1 page Two.
- 7.4** Robert Willis took over as the Designated Premises Supervisor on 25th October 2016.
- 7.5** Sussex Police submitted this Review Application on 21st April 2017
- 7.6** On 8th May 2017 Glenn Burvill ceased to be manager and Robert Willis was made manager of the premises. Since being appointed in his new role, Robert Willis has taken steps to inform local residents the premises is under new management, as exhibited in **Appendix 14**
- 7.7** From 10th May 2017 the premises was relaunched under the new name 'The Kings Head'.
- 7.8** Under the new management and the new business name The Kings Head, the manager, Robert Willis, is looking at modifying the access and egress of customer to help promote the licensing objectives. Considerations such as moving the access into the premises and changing the access into the rear garden to minimise noise and allow greater control over customers and plans to utilise the 1<sup>st</sup> floor restaurant area to create a food-based premises to help change the character of the premises. A full description of the premises can be found in the Background Papers (Application for Review Report, written by Susan Lindsey in October 2016) under section 8.3 – 8.6; the floor plans for the premises are exhibited in **Appendix 15**.

- 7.9** A location plan and pictures of the premises and it's surrounding arear are attached at **Appendix 16**. The pictures are taken from 'google maps' and are to be used as an indicator of the premises location in association with other premises. The premises is surrounded by residential properties which are predominantly flats.

## **8 Licensing Policy Considerations:**

- 8.1** Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. It covers the licensable activities for retail sale of alcohol, regulated entertainment and late night refreshment which are the activities authorised by the licence for the The Kings Head (formerly The Bay Tree Inn).
- 8.2** The aims of the Policy are to secure the safety and amenity of residential communities, help to ensure a sustainable environment, and to provide regulation of the cultural/entertainment industry and to promote the four Licensing Objectives of the Act. Namely;
- Prevention of crime and disorder
  - Public Safety
  - Prevention of public nuisance
  - Protection of children from harm
- 8.3** The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.
- 8.4** In each case that arises following representations the Policy states the Council will:
- a) 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.
  - b) Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
  - c) Consider restricting the hours of trading only in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.
- 8.5** The proceedings set out in the 2003 Act for reviewing premises licenses represent a key protector for the community where problems associated with crime and disorder, public safety, public nuisance and the protection of children from harm are occurring.

Following the grant of a premises licence a responsible authority such as the Police, the Fire Authority, Environmental Health, or an interested party,

such as a local resident or anyone else, may ask the Council to review the licence because of matters arising at the premises in connection with any of the four licensing objectives.

In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives.

## **9 National Guidance:**

**9.1** Relevant sections relating to the April 2017 Home Office Guidance issued under section 182 of the Licensing Act are attached.

**9.2** These sections cover:

- The Review Process **Appendix 17**
- The Licensing Objectives **Appendix 18**

Members are asked to pay particular attention to 11.19 of that Guidance and Section 52 Licensing Act 2003:

## **10. Options:**

The Licensing Sub-Committee may decide to take:

- No Action
- Issue a warning

Where the licensing authority considers that action under its statutory powers are appropriate and proportionate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition)
- to exclude a licensable activity from the scope of the licence
- to remove the designated premises supervisor
- to suspend the licence for a period not exceeding 3 months;
- to revoke the licence.

## **10 Financial Appraisal**

There are no financial implications to this report

## **11 Legal Implications**

The Council's Legal Section have considered this report. (IKEN 5525-MW).

## **12 Equality Screening**

- 12.1** I have completed the Equalities Implications questionnaire and there are no significant effects as a result of these recommendations

## **13 Recommendation**

- 13.1** Members are requested to determine the application made by Sussex Police for a review of the premises licence held by Steven Brumwell in relation to The Kings Head (formerly The Bay Tree Inn), Pelham Road, Seaford, East Sussex, BN25 1EP. Members are requested to give reasons for their determination.

### **Appendices:**

<b>Appendix 1</b>	Review Application Form
<b>Appendix 2</b>	Sussex Police covering letter
<b>Appendix 3</b>	Evidence Bundle 1
<b>Appendix 4</b>	Evidence Bundle 2
<b>Appendix 5</b>	Evidence Bundle 3
<b>Appendix 6</b>	Evidence Bundle 4
<b>Appendix 7</b>	Public Notice
<b>Appendix 8</b>	Representation from Local Resident
<b>Appendix 9</b>	Representation from Public Health
<b>Appendix 10</b>	Statement from Licensing Section (Susan Lindsey)
<b>Appendix 11</b>	Barwells & Sussex Police correspondence
<b>Appendix 12</b>	Statement provided by Barwells
<b>Appendix 13</b>	The Kings Head Premises Licence
<b>Appendix 14</b>	Letter to local residents from Robert Willis
<b>Appendix 15</b>	Floor Plans of licensed premises
<b>Appendix 16</b>	Location Plan of licensed premises
<b>Appendix 17</b>	Review Process
<b>Appendix 18</b>	Licensing Objectives