

Licensing Act Sub-Committee – Record of Hearing held on Wednesday, 3 August 2016 at 6.00 pm

Members: Councillor Dow (Chairman) and Councillors Murdoch and Murray

1 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests under the Code of Conduct.

None were declared.

2 Review of Premises Licence - Coda, 125 Langney Road.

The Chairman introduced members and officers present and detailed the procedure to be followed at the meeting.

The Specialist Advisor - Licensing outlined the report detailing the application for a review of the premises licence for Coda, 125 Langney Road that had been made by Sussex Police on the 14 June 2016 under the prevention of crime and disorder and public safety licensing objectives. A copy of the application for review was attached at Appendix B.

The premises were situated within Eastbourne Borough Council's Cumulative Impact Policy and operated as a public house and recorded music venue.

No representations had been received by interested parties or other responsible authorities.

Additional evidence documentation had been submitted by Sussex Police and the Solicitor acting on behalf of Ms Thresher, Premises Licence Holder (PLH) following publication of the agenda pack and these had been circulated to all parties for consideration.

Mr Savill, Barrister representing Sussex Police addressed the Sub-Committee. Mr Savill made reference to the detailed application for review submitted by Sussex Police that outlined the volume of incidents recorded at the premises and gave a chronological account of the attempts made by Sussex Police to intervene in the running of the premises before submitting an application for review. Mr Savill also made reference to the evidence bundle submitted by Sussex Police that contained extensive Police statements and information concerning incidents emanating from the premises between 2009 and 2016.

Sussex Police contended that the licensing objectives relating to the prevention of crime and disorder and public safety had been undermined. They invited the Sub-Committee to consider adding conditions to the premises licence, detailed in their application in addition to the removal of the current Designated Premises Supervisor (DPS), reduction in time the premises was open to the public and hours for the sale of alcohol, recorded music and late night refreshment. It was also suggested that the premises

licence be suspended for a period of 6 weeks in order to implement the changes.

Mr Savill concluded that there were long standing and persistent problems arising from the premises, including a significant number of assaults, excessive drunkenness, operating beyond permitted hours and two Police licensing visits within recent months involving drug swabs from inside the premises that showed high levels of Class A drugs. Sussex Police contended that there had been a failure on the part of the premises licence holder to engage with Police over a long period of time to address concerns.

The Sub-Committee asked whether it was a legal requirement of a Designated Premises Supervisor (DPS) to inform Sussex Police over a change of management. Ms Irving, Head of Licensing for Sussex Police responded that it wasn't however represented good housekeeping. Mr Aylott, Solicitor representing Mrs Thresher made reference to the statement submitted by Mrs Thresher that detailed attempts made to contact Sussex Police. Sergeant Vokins responded that any contact between Mrs Thresher and Sussex Police was recorded and contained within the review application.

In response to a question from Mr Aylott, Mrs Wolfe, Licensing Officer for Sussex Police responded that there were no objections to the Temporary Event Notice at the premises on the 23 May 2015 because the nature of the event didn't lead Sussex Police to believe it would give rise to any crime and disorder. One registered SIA registered door supervisor had been present for the duration of the event.

Mr Aylott made reference to the incident on the 2 October 2016, contained in the review application that he felt demonstrated Mr Thresher, Manager of the premises acted responsibly and should not be recorded against the premises in a negative tone. Sergeant Vokins responded that this incident was one of many that had occurred at the premises over the years and in not providing any supporting evidence after this particular incident, the Manager was undermining the licensing objectives for the prevention of crime and disorder and public safety.

Ms Thresher asked Sussex Police of instances where she or staff at the premises had been asked to assist with providing supporting evidence. Sergeant Vokins made reference to an incident at the premises on 26 March 2010 where a male was arrested for possession of an offensive weapon and threats to kill and a female was arrested for possession of an offensive weapon. Both of the individuals were intoxicated and charges arose from these arrests. Sergeant Vokins added that a few hours following this serious incident, an officer attended the premises and witnessed the sale of alcohol after the hours permitted on the premises licence, breaching the Licensing Act 2003. Ms Thresher acknowledged this was a mistake but advised that this breach was not communicated to her at the time and they had co-operated fully with regards to the incident. Sergeant Vokins advised that Ms Thresher was present at the premises at the time. Sergeant Vokins concluded that there is an expectation of the PLH to promote the licensing objectives and Sussex Police had found on numerous occasions a reluctance

to meaningfully engage and acknowledge there were issues. Sussex Police had last visited the premises to respond to an incident on 29 May 2016.

Mr Aylott, representing Ms Thresher made representation to the Sub-Committee and referenced the issues that had been raised by Sussex Police. He advised the Sub-Committee that Ms Thresher was happy to add the conditions suggested by Sussex Police to the licence apart from two that were not appropriate or proportionate for the premises. These were the installation of door supervisors and the presence of the personal licence holder at all times. He stated that Sussex Police's suggestion to remove Ms Thresher as DPS and suspend the licence was a punishment for perceived non-compliance.

Mr Aylott made reference to a matrix grid that had been prepared on behalf of the PLH and detailed each recorded police event from 2009 with their comments on how the matter had occurred. Mr Aylott had discounted around half of the 61 dates, contained in Sussex Police's submissions as these made reference to dates where correspondence had been sent rather than incidents at the premises. Mr Aylott had concluded that over the last 7 years, there had been 37 alleged events of crime and/or disorder. Mr Aylott urged the Sub-Committee to not place weight on the 3 events that had taken place in 2009 as different managers were operating the premises at that time, despite Ms Thresher being the PLH. Mr Aylott added that some of the incidents recorded were in fact legitimate lawful ejections of patrons by the manager of the premises.

Mr Aylott made reference to the Licensing Act 2003 and stated that the key was moving forward, identifying the cause of concern and ensuring the licensing objectives were not being undermined.

Mr Aylott made reference to the two events of drug swabs being taken at the premises. The second visit resulted in 9/14 swabs showing no trace of narcotics which represented progress being made at the premises to promote the licensing objectives.

It was accepted by Ms Thresher that there were difficulties supervising the premises from her residency in Wales and she stated that there had been a failure on the part of Sussex Police and the Local Authority to keep her informed of concerns about the management of the premises. Ms Thresher believed that on the occasions when she had been informed, she had acted quickly and appropriately to tackle the problems.

Mr Thresher, son of Ms Thresher was the current Manager of the premises and had been installed since November 2015. Mr Aylott asked the Sub-Committee to take into consideration the attitude of the new management and the changes had been implemented including full co-operation with Sussex Police.

Mr Aylott advised the Sub-Committee that all but three conditions that had been suggested by Sussex Police had been implemented at the premises. The CCTV condition had not yet been met as Mr Thresher had recently installed a new system and it required larger storage to be able to store the footage for 28 days. Mr Aylott added that the installation of door supervisors would be cost prohibitive however suggested that a condition

could be added that Ms Thresher risk assess every event, in co-operation with Sussex Police and install door supervisors as and when necessary. Mr Aylott addressed the condition suggested by Sussex Police relating to a Personal Licence Holder being present at all times when the premises were open. He argued that providing sufficient training to staff was in place, a Personal Licence Holder should not be required to be present.

Mr Aylott then addressed the removal of Ms Thresher as DPS, suggested by Sussex Police. Mr Aylott acknowledged that the relationship between Ms Thresher and Sussex Police was strained and that tonight should be seen as an opportunity to improve communication in the future.

The Sub-Committee was advised that Mr Thresher had recently passed his Personal Licence course and that he was working hard to ensure there had been a decline in the number of reported incidents in recent months. Mr Aylott stated that Mr Thresher wants to become DPS of the premises and had applied for a Personal Licence. This process was subject to its own application process with Eastbourne Borough Council.

Sussex Police refused to accept the grid that had been submitted by Mr Aylott as an accurate account of the incidents at the premises, compared to the volume of statements from police officers within the evidence bundle.

The Sub-Committee referenced the events on 19 November 2015, recorded by Sussex Police where Mr Thresher, Manager was found drunk at the premises and asked how he could expect to operate the premises in that state and promote the licensing objectives. Mr Thresher responded that he was not working that evening and had been attacked by a group of males, causing him to be sick and that he was not drunk.

In response to a question from the Sub-Committee regarding the CCTV system and Sussex Police requiring footage, Mr Aylott responded that all evidence provided should be subject to data protection legislation.

Mr Savill made closing remarks on behalf of Sussex Police. He reiterated that the licensing objectives had been seriously undermined by the premises and made reference to the substantial evidence that had been submitted by Sussex Police. He emphasised that there had been 18 incidents referring to excessive drunkenness at the premises since May 2015. Mr Savill stated that this had been misrepresented in the grid submitted by Mr Aylott by classing them as simply ejections.

Mr Savill continued that a disproportionate amount of time and resources were being expended on the premises by Sussex Police which reflected the measures that were being proposed. Mr Savill reiterated that on two occasions in 2016, high levels of Class A drugs were found on the premises.

Mr Savill made reference to the proposed conditions and suggested steps made by Sussex Police and asked them to disregard the opinion that Mr Thresher would provide good management of the premises when deliberating their decision. Addressing the suggested conditions objected by Ms Thresher, Mr Savill stated that SIA registered door staff represented an important tool in refusing intoxicated individuals access to the premises

and defusing situations that could potentially give rise to crime and disorder. In terms of the suggested condition that a Personal Licence Holder should be present at the premises at all times when it was open to the public, Mr Savill advised that this ensured that an individual with basic level certifiable training in licensing matters was present on the premises and could assume responsibility of the running of the premises when the DPS was absent.

Mr Savill concluded by stating that Sussex Police had no confidence in Ms Thresher in her role of DPS and requested that she be removed from her role. It was also the opinion of Sussex Police that a reduction of hours for licensable activities was necessary given the prevalent theme of drunkenness at the premises until the situation was brought under control. A suspension of the licence for no less than 6 weeks was necessary to implement the changes and send a deterrent message to the owner of the premises that this type of management would not be tolerated by the Licensing Authority. It would also allow time for a new management and DPS to be appointed and implement proper training and systems to the premises.

Mr Aylott made closing remarks on behalf of Ms Thresher. He stated that Sussex Police would be satisfied that the licensing objectives were being promoted if the conditions suggested in their review application were implemented. Mr Aylott reiterated that all but three conditions had been implemented at the premises. He added that suspension of the licence would be a punishment and acknowledged that there had been a breakdown in communications between the Ms Thresher and Sussex Police. He also stated that no other responsible authorities or members of the public had made representation against the premises.

Mr Aylott continued that amongst all the evidence provided by Sussex Police, only on very rare occasions had an arrest been made and therefore Ms Thresher would not have been made aware of the other issues unless Sussex Police had communicated these facts to her. Mr Aylott acknowledged that there had been issues with previous managers at the premises that had undermined the licensing objectives. He advised that parts of the Police evidence did not accurately depict the true events of the incidents at the premises and again made reference to the grid that had been submitted for the Sub-Committee consideration.

He concluded that Mr Thresher had taken steps to reduce any drug use or dealing at the premises, evident by the results of the second drug swap. He concluded that the conditions already in place at the premises were promoting the licensing objectives, therefore a suspension of the licence was not necessary as there had been no objections from any other responsible authorities or members of the public.

Following all the evidence presented to the Sub-Committee, the Sub-Committee retired to consider and determine the application having regard to the representations submitted, Section 182 guidance, the Licensing Act 2003, the four licensing objectives and the Council's Statement of Licensing Policy.

Having taken into account all the relevant considerations the Sub-Committee reconvened and announced the decision as follows.

RESOLVED: That the Designated Premises Supervisor be removed, the premises licence be suspended for 14 days and conditions be imposed upon the premises licence in respect of Coda, 125 Langney Road as set out in the attached appendix.

The meeting closed at 9.55 pm

Councillor Dow (Chairman)