

Licensing Act Sub-Committee

Minutes of meeting held in Court Room - Town Hall on 24 January 2019 at 6.00 pm

Members in attendance:

Councillors Pat Hearn (Chair), Colin Murdoch and Jim Murray

Officers in attendance:

Michele Wilkinson (Lawyer - Housing & Regulatory), Danielle Ball (Specialist Advisor - Licensing, Service Delivery), Stewart Bryant (Senior Specialist Advisor - Licensing and Pollution), Ed Hele (Functional Lead - Quality Environment) and Jazmin Victory (Committee Officer)

Also in attendance:

Kirstie Rolfe (Licensing Officer, Sussex Police) and Daren Buck (Sussex Police)

10 Apologies for absence

There were none.

11 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

There were none.

12 Variation to Premises Licence For: Boltons Bar, 4 Bolton Road, Eastbourne BN21 3JX

All parties present introduced themselves and the Chairman detailed the procedure to be followed at the meeting.

The Senior Specialist Advisor for Licensing outlined the report detailing the application for a variation to the premises licence for Boltons Bar, 4 Bolton Road, Eastbourne BN21 3JX.

Details of the current premises licence and variation sought were appended to the report. When submitting an application for a variation to a premises licence under the Licensing Act 2003, the applicant was required to describe any steps they intend to take to promote the four licensing objectives, as defined by the Licensing Act 2003. These were appended to the report at Appendix 1.

The premises in question was located within the cumulative impact zone (CIZ) and where valid representations were received, the cumulative impact policy (CIP) creates a rebuttable presumption that the application be refused. It is up to the applicant to demonstrate that granting the application would not add to the cumulative impact caused by licensed premises and challenges already experienced in the area and would not undermine the promotion of the licensing objectives.

Following a consultation period of 28 days, two representations had been received Sussex Police and an Environmental Health Specialist Advisor from Eastbourne Borough Council.

Before the meeting commenced, Sussex Police as a responsible authority had mediated with the applicant and agreed 17 conditions which would be adopted by the establishment. Similarly, the Environmental Health Specialist Advisor had mediated with the applicant and agreed 4 conditions. These 21 conditions would be adopted by the establishment regardless of whether the variation to license was granted or not. The list of conditions are attached at Appendix 1.

The applicant addressed the committee, stating that since they had taken over Boltons Bar they had worked to remove its negative stigma; tailoring towards more mature customers and having 0 tolerance on drugs and weapons. The applicant clarified that their variation to premises license requested the removal of tables from downstairs as it was very narrow and it caused a potential fire exit hazard; there would still however be seating available upstairs and outside. The applicant also clarified that the variation to the license regarding the removal of a waiting service was because they would be required to hire more staff, solely for the purpose of waiting tables.

A representative of Sussex Police addressed the Sub-Committee, stating that the variation to the license would undermine the Prevention of Crime and Disorder licencing objective, specifically as the establishment lies within the Cumulative Impact Zone. The applicants had been made aware of the conditions of their license since April, but still continued to knowingly breach their license. The applicant had not demonstrated adequate awareness of what it meant that their property was within a Cumulative Impact Zone, and it was not addressed in their application which therefore failed to promote the core licensing objectives. Despite there being an increase in crime and disorder in and around the vicinity, the applicant had not added any conditions to mitigate risks and this caused a concern regarding the Prevention of Crime.

The Environmental Health Specialist Advisor addressed the Sub-Committee, stating the variation to the license would undermine the prevention of Public Nuisance licensing objective. The Officer stated clarified that the existing terms were too vague and should therefore be completely replaced by the 4 conditions listed at Appendix 1; the Environmental Health Specialist Advisor had mediated with the applicant and would be adopted by the establishment

regardless of whether the variation to license was granted or not . The Environmental Health Specialist Advisor clarified to the committee that the conditions stated 'barely audible' as opposed to a specific decibel level, as decibels did not account for bass and vibrations.

Members and officers picked up upon a contradiction in the current premises license as Part A stated that Live Music and Recorded music were authorised, however Annexe 1 stated Background Music Only under the Prevention of Public Nuisance licensing objective. The applicant agreed that the Background Music Only condition would be removed.

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

Resolved:

1. That the application be rejected as specified in the Decision Notice attached at Appendix 2.

The meeting ended at 8.25 pm

Councillor Pat Hearn (Chair)

Appendix 1

Boltons Conditions as agreed at licensing sub-committee

(Sussex Police)

1) a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (current PSDB Publication), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

(b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

(c) CCTV footage will be stored for a minimum of 28 days

(d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

(e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

(f) Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

(g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

(h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement.

Replacement

2) Challenge 25 - The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of

ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

- 3) Signage advertising the age verification or "Challenge 25" policy will be displayed in prominent locations in the premises. **New**
- 4) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS at least fortnightly.
 - b) The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.
 - c) Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.
 - d) Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept for a minimum of twenty four (24) months. **New**
- 5) On Friday and Saturday nights a minimum of two SIA registered door staff shall be employed at the premises from 21:00hrs and one further SIA registered door staff from 2200hrs until 30 minutes after the premises has closed. This will also apply to all Bank Holidays, public holidays, on any occasion when a temporary event notice is in place at the premises, on any occasion when there is a special event in Eastbourne such as Airborne or any other event when, having been risk assessed by the designated premises supervisor, door staff are considered necessary. **New**
- 6) **SIA** Door staff shall be fully briefed prior to work, with clear written instructions regarding their specific duties. Door staff will be made aware of individuals banned by Pubwatch. These records will be made available to the Licensing Authority and/or the Police upon request. **New**
- 7) **SIA** door supervisors shall complete incident logs prior to the end of their shift.

- 8) Those performing the role of **SIA** Door Supervisor will not perform any other role when engaged for the purpose of Door Supervision activities. **Replacement**
- 9) There will be a written search policy in place for when door supervisors are on duty with the number of searches to be carried out set on a risk assessment basis. Drugs taken from customers will be stored securely and delivered to the police in a manner agreed with the police. **New**
- 10) The management and premises will have an absolute zero tolerance policy towards drugs and drug misuse. Any illegal drugs seized will be stored in a secure 'drugs box' and periodically the management will request the police to come and remove all drugs in the 'drugs box' for destruction. **New**
- 11) The management will permit the police to use drugs detection process e.g. and 'ION Track' machine or similar device inside the premises to detect the illegal use of drugs and will sign a Police consent form. **New**
- 12) Customers will not be permitted to take alcohol outside of the premises to consume whilst smoking, congregating or eating on the pavement outside of the premises after 18:00 hrs. **New**
- 13) No **open vessels** shall be allowed off the premises. **New**
- 14) At the end of the night a written crowd management procedure/dispersal policy shall be designed and implemented to ensure that there is a wind down period prior to the premises closure and customers are advised accordingly. This will be agreed with Sussex Police to prevent groups gathering, engaging in altercations and persons remaining in the vicinity of the premises. **New**
- 15) There shall be regular (at least once during every hour) patrols of the customer trading areas, smoking area and WCs to ensure that customer behaviour is not in breach of the law or venue policies or harming the licensing objectives. These patrols will be recorded in writing in the incident book. Door supervisors will be instructed to have particular regard to the care of vulnerable persons particularly anyone who appears to be drunk, incapacitated and potentially vulnerable due to excessive alcohol consumption and/or drug misuse. If it is necessary to eject them, they will be peaceably ejected from the premises so long as an on the spot risk assessment is clear that the person will not be vulnerable and at risk when placed outside. If necessary a taxi will be called and the person escorted

to and put into the taxi to be taken home. Door supervisors will be aware of the need to call the emergency services if necessary. **New**

- 16) Management shall adopt a vulnerable person's policy which will be implemented by all staff engaging with members of the public. This shall form part of staff training (including refresher training) which shall be fully documented, dated and signed by both the DPS & staff member. **Replacement**

(Eastbourne Borough Council)

- 1) The premises will become an active member of the BCRP or similar scheme approved by the Licensing Authority. **New**
- 2) No music to be played in the rear garden **New**
- 3) Noise from customers and music should be barely audible before 23:00 and inaudible after 23:00 at any sensitive premises in the vicinity such as residential properties; Responsible trained staff should monitor this. **New**
- 4) Doors leading into the garden should be kept closed apart from allowing ingress and egress after 23:00 hrs to avoid the escape of music/noise. **New**
- 5) Alternative acoustic protection should be provided such as heavy curtains or sound proofing.

Appendix 2

Boltons Bar, Bolton Road, Eastbourne – Result of Hearing

Further to the Hearing of the Licensing Sub Committee held on Thursday, 24 January 2019, I am writing to confirm the Sub Committee's decision regarding the **Application for a variation to the premises licence at 4 Bolton Road, Eastbourne, BN21 3JX (Boltons Bar)**.

The decision of the Sub Committee is as follows:

Application for a variation to the premises licence at 4 Bolton Road, Eastbourne, BN21 3JX (Boltons Bar) from OMI Leisure Ltd

The hearing concerned an application from OMI Leisure Ltd (“the Applicant”) for a variation of the premises licence at 4 Bolton Road, Eastbourne, BN21 3JX (Boltons Bar)

The Applicant applied to vary the current licence conditions by removing a number of conditions as set out in paragraph 2.1 of the Report. At the hearing the Applicant stated they were content to remove from their application 2.1 (e) at page 2 of the Report “To remove the condition/objective to supply and serve food/late night refreshment.”

In discharging its functions the Sub Committee considered the relevant legislation, the relevant Home Office guidance, the Council’s Licensing Policy, and the rules of natural justice.

Due regard was given to the written and oral representations received from Sussex Police. Those representations were that to grant the variation application would undermine the Licensing Objectives. The Police considered that the removal of the conditions, as applied for, would mean that the premises would become a vertical drinking club. The Police contested that there had been a history of problems at the premises and that the premises had a higher rate of reported crime than other premises in the area. They considered that the premises were already not being managed effectively within the current licence conditions and they had no faith in the Applicant’s ability to comply with its licence going forward. Further that the premises are within the Cumulative Impact Zone and no regard by the Applicant had been given to that fact. Therefore the Police contended that this application should be refused.

The Sub Committee noted that the Applicant and Sussex Police had mediated seventeen conditions. It was clarified with the Applicant that they were content, regardless of whether the Sub Committee agreed their application or not, to add or replace on the existing licence the amended conditions agreed with the Police before the start of the hearing.

Due regard was also given by the Sub Committee to the written and oral representations of the Specialist Adviser (Environmental Health) in relation to the prevention of public nuisance objective. The Sub Committee noted that the Applicant and the Adviser had mediated four new conditions to the licence, before the hearing began. The Applicant confirmed that, regardless of whether the application was granted by the Sub Committee, they were content to agree that those new conditions be added to the current premises licence as replacements for the four bullet points under the heading Prevention of Public Nuisance on page 29 of the Report.

The Sub Committee considered the application and the oral representations made by the Applicant at the hearing. The Applicant said that they wanted to remove the conditions, as indicated at 2.1. of the Report, in order to more effectively manage the premises and with the aim of raising the age of its clientele. In response to the Police's highlighting of various recent incidents of disorder at the premises the Applicant stated they were not responsible. In response to a question concerning their understanding of the Cumulative Impact Zone the Applicants were unable to explain its impact. The Sub Committee noted that the Applicant stated they had experience of running licensed premises and their protestations that they would employ sufficient staff to effectively manage the premises. The Applicant indicated that they were content to co-operate with the Police and Council Officers to discuss any future issues at the premises and promised that the premises would be better run.

In its deliberations the Sub Committee considered what decision would be appropriate from the options outlined in paragraph 9 of the Report.

Decision

The Sub Committee rejected the application to remove the conditions as outlined in 2.1 at a, b, and c. They agreed to remove the condition at 2.1 (d) "Double glazing fitted" on the basis that an alternative condition had been agreed between the Specialist Adviser (Environmental Health) and the Applicant as "Acoustic protection should be provided such as heavy curtains or sound proofing." The Sub Committee noted that at the hearing the Applicant had withdrawn their application in relation to paragraph 2.1 (e).

Reasons for decision

The Sub Committee considered, having due regard to all the representations that the removal of the licence conditions applied for would not promote the four licensing objectives. In making this decision the Sub Committee took account of the history of problem at the premises as outlined by the Police and the lack of understanding displayed by the Applicant in relation to their licensing responsibilities.

In particular, in relation to the rejection of 2.1 (a), the Sub Committee considered the removal of the waitress service within the outside garden would mean that this area would not be sufficiently monitored so as to promote the licensing objectives. Specifically in relation to the rejection of 2.1

(b), the removal of seating, Members considered that part of the application should be rejected on the basis that the removal of seating would mean that the Applicant would be unable to control the flow of customers in this area and thus this would not promote in the particular the licensing objective of the promotion of public safety.

The Sub Committee noted that it welcomed the Applicant's willingness to accept the conditions proposed by the Police and the Specialist Adviser (Environmental Health) and their willingness to meet with the relevant Officers going forward concerning issues at the premises.

The decision was provided both electronically and in writing to all parties within five working days.

The Applicant may appeal this decision and information on that matter is contained within paragraph 10.2 of the Report.

The meeting ended at 8.25 pm

Councillor Pat Hearn (Chair)