

Agenda Item No: 4

Report No: 139/16

**Report Title: Application for Review to the
Premises Licence for The Bay Tree Inn, Pelham
Road, Seaford**

Report To: Licensing Sub-Committee

Date: 20 October 2016

Cabinet Member: Councillor Paul Franklin

Ward(s) Affected: All Seaford wards

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

Contact Officer(s)-

**Name(s): Susan Lindsey
Post Title(s): Licensing Officer, Environmental
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1. The Application

- 1.1 Applicant:** Chief Inspector Robert Leet, Lewes Police Station,
6 North Street, Lewes BN7 2PA.
- 1.2 Type of application:** Review of premises licence under Licensing Act
2003 called by Sussex Police who are a Responsible
Authority. Their complaints are relevant and not vexatious,
frivolous or repetitious ***Appendix 1***
- 1.3 Premises for Review:** The Bay Tree 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
- Licensing Objectives Subject of Review from other parties:**
- Public nuisance
The Protection of Children from Harm.

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 prevention of crime and disorder, and public safety have been undermined by the carrying on of licensable activities at The Bay Tree Inn.

Sussex Police state in their application that since March 2016 there have been a significant number of incidents connected with the premises, including fights and assaults resulting in varying degrees of injury. A recurring feature in the majority of the incidents is the drunkenness of customers. Sussex Police are extremely concerned by the lack of control exercised by both the Premises Licence Holder, Mr Steven Brumwell, and the Designated Premises Supervisor, Mr Glenn Burvill.

Given the serious nature of the incidents occurring in connection with these premises, the majority of which are fuelled by drunkenness, and the failure of the Premises Licence Holder and the Designated Premises Supervisor and staff to promote the licensing objectives, despite numerous interventions by police, Sussex Police have no alternative but to submit this application for a review of the Premises Licence to ensure the necessary changes are made at the premises to keep people safe.

1.6 Evidence from Sussex Police:

- The evidence bundles referred to in the Review Application from Sussex Police have not been received at the time of writing this report
- Further Evidence: covering letter from Sussex Police dated 26th September 2016 including a 'further to' witness statement by Hannah Elizabeth Rush dated 23rd September 2016 and a witness statement by Laura Louise Deacon dated 25th September 2016
Appendix 2

2 Statutory Requirements:

2.1 The Licensing Act 2003 (Premises Licenses and Club Premises Certificates) Regulations 2005 prescribe that a Regulation 38 notice advertising the review is attached to the premises and on the Council web site. I, Susan Lindsey – Lewes District Council Licensing Officer, can confirm that the notices have 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 2nd September. **Appendix 3.**

3 Interested Parties:

3.1 Letters received within the relevant 28 day notice period wishing to make representations about the application are attached **Appendix 4, 5 and 6**

There are three written representations. They are considered relevant and not vexatious or frivolous

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>	Representation made. Appendix 7
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>	No comment.

5. Correspondence from legal representative of The Bay Tree Inn:

- Letter from Barwells Solicitors on behalf of Mr Brumwell dated 26th September 2016 enclosing evidence of steps implemented at the premises **Appendix 8**.
- Letter from Barwells Solicitors on behalf of Mr Brumwell dated 29th September 2016 enclosing further evidence of steps implemented at the premises **Appendix 9**.

6. Reviewed Premises. The Bay Tree Inn:

6.1 The Licensable Activities authorised at these premises are shown on the Premises Licence **Appendix 10**.

6.1.2 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

8 The Bay Tree Inn. Background Information:

8.1 Mr Brumwell has been the owner of the Bay Tree Inn for 19 years. In November 2005 the Licence was converted and varied over to the Licensing Act 2003 from the Licensing Act 1964. Since this conversion, 11 years ago, Mr Brumwell has been the Holder of the Licence and there have been a total of 8 different Designated Premises Supervisors, including Mr Brumwell and Mr Burvill.

8.2 Mr Burvill took over as the Designated Premises Supervisor on 29th February 2016.

- 8.3** The Bay Tree is a large Public House, entranced through doors opening onto Pelham Road. The premises has a large rear patio/garden area with access through a gate onto West Street.
- 8.4** As you enter the premises it has a large bar area straight in front of you with a pool table and dance area to the left, and customer seating with tables to the right.
- 8.5** Main access to the rear garden/patio area for customers is made through doors at the rear left of the property, through a lobby area, and through a second set of doors.
- 8.6** The public house offers a bar food menu throughout the day on the ground floor. The premises does not, at present, utilise the restaurant area shown on the first floor Licensing plans **Appendix 11**.
- 8.7** The premises is surrounded by residential properties: predominantly flats.
- 8.8** A location plan and pictures of the premises and it's surrounding arear are attached at **Appendix 12** (please note, the pictures are taken from 'google maps' and are to be used as an indicator of the premises location in association with other premises)

9 Licensing Policy Considerations:

- 9.1** 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 Bay Tree Inn.
- 9.2** 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
- 9.3** 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.
- 9.4** 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.

9.5 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.

10 National Guidance:

10.1 Relevant sections relating to the Home Office Guidance issued under section 182 of the Licensing Act are attached.

- 10.2** These sections cover:
- The Review Process **Appendix 13**
 - The Licensing Objectives **Appendix 14**

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

Where the licensing authority considers that action under its statutory powers are necessary, 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), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);

- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.
- to suspend the licence for a period not exceeding 3 months;
- to revoke the licence.

11. Financial Appraisal

There are no financial implications to this report

12. Legal Implications

- 12.1** Section 51 Licensing Act 2003 allows for the licensing authority to undertake a review following the grant of a premises licence when requested to do so by a responsible authority such as the Police or any other person.
- 12.2.** In determining this application the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses will be given due consideration.
- 12.3.** Members must consider each application on its own merits and in accordance with the principle of natural justices as well as the provision of the Licensing Act 2003. All relevant factors must be taken into account and all irrelevant factors must be disregarded.
- 12.4.** All applications before the Sub Committee must be considered in line with the Equality Act 2010 and also in accordance with the Councils stated policy on equalities.
- 12.5** In accordance with section 17 Crime and Disorder Act 1998 the Council is under a duty to exercises its functions with due regard to the likely effect on, and the need to do all it reasonable can to prevent crime and disorder in its area.
- 12.6.** Section 181 and Schedule 5 Licensing Act 2003 provides a right of appeal to the Magistrates Court in respect of applications for a review on an existing licence. An appeal can be made following the decision of the Licensing Sub Committee by the applicant for the review, the holder of the premises licence or any other person who made relevant representations in relation to the application. 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 by the licensing authority of the decision.

13 Equality Screening

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

14 Recommendation

14.1 Members are requested to determine the application made by Sussex Police for a review of the premises licence held by Mr Stephen Brumwell in relation to The Bay Tree Public House, Pelham Road, Seaford, East Sussex, BN25 1EP. Members are requested to give reasons for their determination.