



Lewes District Council

Licensing Committee

Minutes of a meeting of the **Licensing Sub-Committee** held in the **Ditchling and Telscombe Rooms, Southover House, Southover Road, Lewes** on **Thursday, 20 October 2016** at 10.22am

Present:

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

Officers Present:

S Lindsey, Licensing Officer
J Norman, Committee Officer
M Wilkinson, Solicitor

Applicant's Representatives Attending:

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

Representors:

S Brumwell, Proprietor of The Bay Tree Inn, Seaford
D Lewis-Hall, Barrister

In Attendance:

J Adams, Senior Environmental Health Officer
G Burvill, Designated Premises Supervisor, The Bay Tree Inn, Seaford
E Hele, Principal Environmental Health Officer – Public Health and Licensing

Also present:

Five members of the public

	Minutes	Action
1	Election of Chair of the Committee <u>Resolved:</u> 1.1 That Councillor Linington be elected Chair of the Sub-Committee for this meeting.	

2 Application for Review to the Premises Licence for The Bay Tree Inn, Pelham Road, Seaford

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

The Sub-Committee considered Report No 139/16 to determine the application for review of the premises licence for The Bay Tree Inn, Pelham Road, Seaford.

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

The Licensing Officer explained that, under paragraphs 1.5.2 and 1.6 of the Report, that Sussex Police contended that the prevention of crime and disorder, and public safety had been undermined by the carrying on of licensable activities at The Bay Tree Inn.

Sussex Police stated in its application that since March 2016 there had been a significant number of incidents connected with the premises, including fights and assaults resulting in varying degrees of injury. The Police were concerned by what it viewed as the lack of control exercised by both the Premises Licence Holder (PLH), Mr Brumwell, and the Designated Premises Supervisor (DPS), Mr Burvill.

Given the nature of the incidents which had occurred in connection with the premises and the failure asserted by Sussex Police of the PLH, DPS and staff to promote the licensing objectives, despite numerous interventions by police, Sussex Police believed it had no alternative but to submit its application for a review of the premises licence to ensure that the necessary changes were made at the premises for the safety of the public.

The Sub-Committee invited Mr Savill, Barrister, to present the case on behalf of Sussex Police. Mr Savill outlined that the Police had gained evidence that licensable activities at the premises had undermined two of the four licensing objectives listed on page 13 of the Report, namely the prevention of crime and disorder, and public safety.

Mr Savill highlighted on page 14 of the Report that since March 2016 there had 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 was the drunkenness of customers. Sussex Police was very concerned by what it viewed as the lack of control exercised by both the PLH, Mr Brumwell and the DPS, Mr Burvill.

Referring to pages 27 – 29 of the Police's Report, Mr Savill summarised that out of the nine proposed conditions to the premises license, the Police and Mr Brumwell were able to come to an agreement on a majority of the proposed conditions with the exception of the following:

- Under Condition 1 on page 27 of the Report, the Police proposed

that the CCTV footage be stored for a minimum of 28 days. The Police asserted that the Home Office stated that CCTV footage should be stored for a minimum of 31 days.

- Under Condition 2 on pages 27 and 28 of the Report, the Police proposed that SIA registered door staff should be employed at the premises from 21:00hrs until half an hour after the premises has closed on Fridays and Saturdays plus Bank Holidays, New Year's Eve, Public Holidays and any time when a Temporary Event Notice is in operation; and

In addition, on pages 28 and 29 of the Report, the Police proposed:

- Removal of the current DPS with a replacement being subject to Sussex Police approval; and
- A reduction of hours for all licensable activities to 23:30hrs daily; and a reduction of hours for the time the premises was open to the public to 00:00hrs daily; and
- Suspension of the premises license for a period of not less than 6 weeks in order to implement the changes that would be brought about by the requested conditions.

On behalf of Sussex Police, Mr Savill asked the Sub-Committee to agree to the addition of these proposals. The parties prior to the hearing had agreed to the replacement of the DPS.

Sergeant Vokins of Sussex Police addressed the Sub-Committee to provide further information regarding the license holder. Sgt Vokins explained to the Sub-Committee that the Police asserted that there was a clear timetable of events from March 2016 until present, which demonstrated a failure to uphold the two licensing objectives which were set out by Mr Savill earlier during the hearing. Sgt Vokins described each incident in detail to the Sub-Committee in which the Police contended there were violations of the Licensing Act 2003.

The Sub-Committee invited Mrs Adams, Senior Environmental Health Officer, to present her Report.

Mrs Adams provided information on complaints made against the licenced premises which were received by the Council's Environmental Health Department.

The Sub-Committee invited Mr Lewis-Hall, Barrister, to present the case on behalf of the representor, Mr Brumwell, who was the proprietor of The Bay Tree Inn, Seaford.

Mr Lewis-Hall explained to the Sub-Committee that Mr Brumwell had been a licence holder for two pubs in Seaford since the mid-1980s. He asserted that Mr Brumwell had no history of issues regarding the licensing objectives

until Mr Burvill became the DPS in March 2016. Mr Lewis-Hall further asserted that Mr Burvill had not purposely violated the licensing objectives and that Mr Burvill was taking reasonable steps in response to Sussex Police's complaints.

Mr Lewis-Hall reviewed the timeline of events in regards to the evidence provided by Sussex Police earlier during the hearing. He referred to pages 27 – 29 of the Police's Report and confirmed that Mr Brumwell had agreed to a majority of the points in relation to the nine proposed conditions to the premises license. Mr Lewis-Hall further confirmed on behalf of Mr Brumwell, that the points which they were not able to come to an agreement on with Mr Savill and Sussex Police, were not regarded as a reasonable request.

Mr Lewis-Hall explained that Mr Brumwell wanted to avoid a hearing in the future with the Sub-Committee and that Mr Brumwell was willing to implement the majority of the requests proposed by Sussex Police. Mr Lewis-Hall offered alternative solutions to the two proposed conditions to the premises license for which he and Mr Brumwell could not come to a resolution with the Police as follows:

- Under Condition 1 on page 27 of the Report, Mr Lewis-Hall suggested that CCTV footage from the licensed premises be kept on file for 20 days. He offered that Mr Brumwell would produce a copy within 48 hours of any incident reported to Sussex Police, with one hour prior to the incident and one hour after the incident to be included in the copy of the CCTV footage.
- Under Condition 2 on pages 28 and 29 of the Report, after a three month review period, continued employment of door staff at the licenced premises would be at the discretion of Mr Brumwell.

Referring to pages 28 and 29 of the Report, Mr Lewis-Hall explained that a reduction of operating hours and a proposed suspension of the premises licence would cause substantial financial hardship for Mr Brumwell. Mr Lewis-Hall asserted that these were too extreme and would result in great financial loss not only to Mr Brumwell, but to the employees of Mr Brumwell at the licenced premises.

On behalf of Mr Brumwell, Mr Lewis-Hall asked the Sub-Committee to reject the implementation of the proposed Conditions 1 and 2, for which he was not able to come to an agreement on with Sussex Police.

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 representor, Mr Brumwell.

The Sub-Committee withdrew to consider the application. The decision was delivered as follows:

Resolved:

“The hearing concerned a review of the premises licence of 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. Due regard was also given to the written and oral representations of the Council’s Senior Environmental Health Officer. It noted the written representations of Mr Rooney, Mrs McElwaine and Mrs Richardson who live in the locality of the premises. The Sub-Committee further considered the representations made on behalf of the premises licence holder. In its deliberations the Sub-Committee considered whether it was appropriate to take any of the steps as outlined in paragraph 10.2 of the Report.

The Sub-Committee noted the mediated conditions agreed between the Police and the premises licence holder prior to this hearing. These are indicated on page 28 of the Report in the numbered paragraphs 3 to 9.

The Sub-Committee noted that during the mediation process the parties agreed to the replacement of the current Designated Premises Supervisor (DPS).

Decision

The Sub-Committee has resolved to:

1. Impose on the premises licence conditions 1 and 2 as requested by the Police at pages 27/28 of the Report;
2. Reject the Police’s application for a condition to approve a new DPS;
3. Reject the Police and Environmental Health application for a reduction in the licensable hours;
4. Agree the imposition of a condition for the premises licence holder to produce a noise management plan. That plan to be provided to Environmental Health within one month; and
5. Reject the Police’s application to suspend the licence for a period of at least 6 weeks.

Reasons for the decision

The Sub-Committee believes that these steps in relation to the premises licence are the only appropriate courses of action. The Sub-Committee’s reasons for these decisions are:

1. In relation to the imposition of conditions 1 and 2 the Sub-Committee believed that these were proportionate taking into account the Home Office guidance and representations of all parties;
2. In relation to the new DPS being approved by the Police the Sub-Committee considered that the current statutory powers for the Police to object to a DPS are sufficient and noted the relevant parts of the Home Office guidance on that matter;
3. In relation to the refusal to reduce the licensable hours the Sub-Committee did not consider this to be an appropriate or proportionate step in light of the evidence before it;
4. In relation to the noise management plan the Sub-Committee believed that to be an appropriate step which will address the public nuisance issues; the plan to be agreed with Environmental Health; and
5. In relation to the refusal to suspend the licence the Sub-Committee did not consider that to be a proportionate step that would promote the relevant licensing objectives. The Sub-Committee were content that the changes that are necessary can be made without a period of suspension.

In addition the Sub-Committee would give the premises licence holder a warning. The Sub-Committee considered that there have clearly been management problems and potentially breaches of the premises licence which it took very seriously. If further problems arise the Sub-Committee will take into consideration the incidents contained within the Police's application and other written representations if the matter comes back before it.

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 the time the appeal is disposed of.

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.

This decision will be provided in writing to all parties within the next 5 working days."

The meeting ended at 1:56pm

I Linington
Chair