

Report to:	Licensing Sub-Committee
Date:	28 February 2020
Title:	Application for Review to the Premises Licence for The Lamb, 10 Fisher Street, Lewes BN7 2DG
Report of:	Director of Service Delivery
Ward(s):	Lewes Castle
Purpose of report:	To consider representations made in support and against the Review Application to the Premises Licence under the Licensing Act 2003 and make a decision on the application
Officer recommendation(s):	To consider representations made in support and against the Review Application to the Premises Licence under the Licensing Act 2003 and make a decision on the application.
Reasons for recommendations:	To determine an outcome for the Review application submitted.
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1 Introduction

- 1.1 On 6th January 2020 a review application was submitted by Cllr Milly Manley on behalf of 5 local residents in relation to The Lamb, 10 Fisher Street, Lewes (**Appendix 1**)
- 1.2 The proceedings set out in the Licensing Act 2003 for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives occur after the grant of a premises licence.
- 1.3 At any stage, following the grant of a premises licence, a responsible authority, or any other person, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 1.4 The grounds for review are outlined by the applicant in **Appendix 2** with residents describing conditions caused by the mis-management of the premises caused by loud, abusive, intimidating and provocative language from customers towards residents on a regular basis. This causes a lack of sleep, leading on to stress and anxiety, with the addition of living in fear of either themselves or their

property being attacked. Residents are frequently kept awake by inebriated customers shouting, fighting, vomiting and stumbling in front of traffic. Staff are also reported to be heard shouting and behaving in a manner contributing to that of the customers. Residents also report music levels as high, but it is the behaviour of the staff and customers that is the primary cause of concern.

1.5 Statements from the 5 residents being represented by Cllr Milly Manley are at **(Appendix 3)**

1.6 4 audio recordings and 14 video recordings have been submitted in support of the application with documented dates. A list of the dates these videos relate to are in **Appendix 4**

1.7 For data protection reasons, these recordings will not be made available to the public either prior to the Review Hearing, or at the Review Hearing.

2. Licensing Objectives which are the subject of this Review

2.1 Public nuisance
Public safety
Prevention of crime and disorder

3. Review advertising

3.1 The application has been advertised in line with the Licensing Act 2003 (Premises Licence and Club Premises Certificates) Regulations 2005

4. Further additional representations

4.1 During the 28 day Review consultation period further representations were received from:

4.2 Sussex Police on the grounds of prevention of crime and disorder. This representation covers the habitual misuse of illegal substances within the premises and also identifies three separate incidents reported to police including a physical assault on the DPS, a noxious substance being let off within the premises, noise and aggression, and finally drug swab results taken following a routine and follow up visits. **(Appendix 5)** This representation is supported by an evidence bundle **(Appendix 6)**.

4.3 Mr Dino Morra on the grounds of public nuisance, and the prevention of crime and disorder. This representation covers his witnessing of disturbance and the fact his tenants have reported to him that they feel threatened, and have been verbally threatened and abused by the patrons from the premises. **(Appendix 7)**

4.4 Further representation from Resident 2 (represented by the applicant) on the grounds of public nuisance. This representation covers an incident that took place in the early hours of 11th January involving a man shouting obscenities and acting in an aggressive and threatening way, keeping 'resident 2' awake. **(Appendix 8)**. This further representation is supported by photographic

evidence (**Appendix 9**) and 5 video recordings.

- 4.5 A representation in support of the Premises was received from Mr John Frizell who lives 200m from the Lamb Public House. He comments that he has never felt intimidated or inconvenienced by the premises customers, and attends regular music evenings hosted at the premises. (**Appendix 10**)

5 Responsible Authorities

- 5.1 The following responsible authorities have been sent notification of the review application by Cllr Milly Manley and the response from authorities concerned is as follows:

5.2	Environmental Health	No comment
5.3	Fire Authority	No comment
5.4	ESCC Child Protection	No comment
5.5	Trading Standards	No comment
5.6	Health and Safety	No comment
5.7	Planning	No comment
5.8	Public Health	No comment
5.9	Home Office Immigration	No comment
5.10	Sussex Police	Representation made (see 4.2)

6. Reviewed Premises: The Lamb, 10 Fisher Street, Lewes

- 6.1 The Licensable Activities authorised at these premises are shown on the Premises Licence (**Appendix 11**)
- 6.2 Due to the fact a representation makes reference to music at the premises, attention is drawn to the fact that, due to the implementation of the Live Music Act, and the Legislative Reform (Entertainment Licensing) Order, amplified Live Music and Recorded Music are no longer licensable at these premises between the hours of 8am and 11pm.
- 6.3 Any existing licence conditions which relate to live or recorded music remain in place but are suspended between the hours of 8am and 11pm as long as the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises. (**Appendix 12**)
- 6.4 On a review of a premises licence, the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to music. Similarly, a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.
- 6.5 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements.

7. Background information

- 7.1 Lewes District Council have records of this premises being a public house since the implementation of the Licensing Act in 2005.
- 7.2 No alterations to the hours or conditions have been made to the Premises Licence since it's conversion to the Licensing Act in 2005.
- 7.3 There have been 10 changes of Designated Premises Supervisor (DPS) in the last 14 years; the most recent change on 4th July 2019 when Greene King Retailing Limited (the Premises Licence Holder) applied for Mr Stephen Elliott to be named on the Licence as the DPS. To date Mr Stephen Elliott remains named on the Licence as DPS.
- 7.4 A location plan showing the premises and the surrounding area are attached at **(Appendix 13)**. The pictures are taken from 'google maps' and are to be used as an indicator of the premises location in association with other premises.
- 7.5 The premises are surrounded by a mixture of residential and business premises.

8. Licensing Sub Committee Considerations

- 8.1 In determining the Review application with a view to promoting the licensing objectives in the overall interests of the local community, the Licensing Authority must give appropriate weight to:
- The steps that are appropriate to promote the licensing objectives
 - The representations presented by all parties
 - The Home Office Guidance issued under Section 182 of the 2003 Act
 - The Lewes District Statement of Licensing Policy
 - Any other relevant legislation including section 17 Crime and Disorder Act 1998 which imposes a duty on each local authority to exercise its various functions with due regard to the likely effect on the exercise of those functions and the need to do all it reasonably can to prevent crime and disorder in its area. The Sub Committee should also consider this application in light of the Human Rights Act 1998. It is unlawful for a public authority to act in a way which is incompatible with a human right.

9. Lewes District Council Statement of Licensing Policy

- 9.1 Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the 2003 Act. It covers the licensable activities for retail sale of alcohol, regulated entertainment, the provision of late night refreshment, the exhibition of film and indoor sporting events; which are the activities authorised by the licence for The Lamb.
- 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 2003 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:

- 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.
- 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.
- 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.

10. National Guidance

10.1 Relevant sections relating the April 2018 Home Office Guidance issued under section 182 of the Licensing Act 2003 are attached.

10.2 These sections cover:

- The Review Process (**Appendix 14**)
- The Licensing Objectives (**Appendix 15**)
- Conditions attached to premises licences (**Appendix 16**)

10.3 Members are asked to pay particular attention of:
9.26 to 9.30 (Disclosure of personal details of persons making representations)
 Local residents supplied the Authority with written reasons to remain anonymous throughout the review process which were accepted.
9.42 to 9.44 (Determining actions that are appropriate for the promotion of the licensing objectives)
 Both of the above parts of the Guidance are at **Appendix 17**

11. Options

11.1 Where the Sub-Committee considers that action under its statutory powers is appropriate, it must take any of the following steps:

- Modify the conditions of the premises licence temporarily for a period not exceeding three months, or permanently
- Exclude a licensable activity from the scope of the licence temporarily for a period not exceeding three months, or permanently

- Remove the Designated Premises Supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence

11.2 The Sub-Committee may decide it is appropriate to take no action or to issue a formal warning.

12. Right of Appeal against review decision

12.1 An appeal against the review decision may be made to a magistrates' court within 21 days of the appellant being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder, and any other person who made relevant representations.

12.2 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

13. Financial appraisal

13.1 There are no financial implications associated with this report.

14. Legal implications

14.1 Under section 51 2003 Act a responsible authority or any other person may apply for a review of a licence. Under section 52 of the Act, if the correct process under section 51 has been followed, the licensing authority before determining the application must hold a hearing to consider it and any relevant representations.

14.2 The Legal Section considered this Report on 18 February 2020 (IKEN-8987-MW)

15. Risk management implications

15.1 There are no risk implications connected to this report.

16. Equality analysis

16.1 An Equality Analysis is not constructive in this instance

17. Environmental sustainability implications

17.1 There are no environmental sustainability implications connected to this report

18. Appendices

- Appendix 1 – Review Application form
- Appendix 2 – Grounds for review supplied by applicant
- Appendix 3 – Statements from 5 x residents represented by applicant

- Appendix 4 – List of dated videos supplied as evidence
- Appendix 5 – Sussex Police representation covering letter
- Appendix 6 – Sussex Police evidence bundle in support of representation
- Appendix 7 – Representation : Mr Dino Morra
- Appendix 8 – Resident 2 further written representation
- Appendix 9 – Resident 2 supporting photographic evidence to representation
- Appendix 10 – Email in support of premises from Mr John Frizell
- Appendix 11 – Lamb Premises Licence
- Appendix 12 – Home Office Guidance : Overview of circumstances in which entertainment activities are not licensable
- Appendix 13 – Location plan – The Lamb
- Appendix 14 – Home Office Guidance : Review Process
- Appendix 15 – Home Office Guidance : The Licensing Objectives
- Appendix 16 – Home Office Guidance : Conditions
- Appendix 17 – Home Office Guidance : Disclosure of personal details and the determination of actions

19 Background papers

The background papers used in compiling this report were as follows:

- [Lewes District Council Statement of Licensing Policy](#)
- [Home Office Guidance issued under section 182 of the Licensing Act 2003](#)