



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in Committee Room 1, East Pallant House on Tuesday 25 August 2015 at 9.30 am

Members Present: Mr P Budge, Mr P Jarvis and Mr H Potter

Members not present:

In attendance by invitation:

Officers present all items: Mr N Bennett (Litigation Lawyer), Mr L Foord (Licensing Manager) and Mrs K Jeram (Member Services Officer)

1 To elect a Chairman for this Hearing

RESOLVED

That Mr P Budge be elected Chairman of the Sub-Committee.

2 Declarations of Interests

There were no declarations of interests.

3 The Vestry, 21-23 Southgate, Chichester, West Sussex, PO19 1ES

Applicant

Mr M Balmer, Sergeant, Licensing – Sussex Police
Ms P Giddings, Licensing Officer – Sussex Police
Ms J Irving, Licensing and Public Safety Manager – Sussex Police
Mr P Savill – Counsel for Sussex Police

Premises Licence Holder

Mr R Clark, Barrister
Mr G Cooper, Chapter Three Consulting Limited
Mr N Marshall, Premises Licence Holder
Mr C McFaul, Director of Blayde Security
Mr N Walton, Poppalston Allen Solicitors
Mr C William, Blayde Security

Before the start of the hearing it had been agreed to delay its start by fifteen minutes to enable discussions to take place between the representatives from Sussex Inns (premises licence holder) and Sussex Police.

The Chairman introduced all parties present.

Mr Bennett confirmed to the Chairman that whilst constructive conversations had taken place between both parties they had advised that it would be helpful to the process of the hearing to adjourn the hearing to enable them to continue with their discussions

(the hearing adjourned between 9.50am and 10.30am)

The Chairman referred to the discussions that had taken place during the adjournment between both parties regarding the conditions proposed by Sussex Police. Mr Bennett added that both parties had advised they were in a position to make representations to the Sub-Committee about where they were now and what they hoped to achieve within a five month period.

Mr Savill advised the Sub-Committee that the discussions during the adjournment had been positive and were ongoing. He hoped that they would lead to the Sub-Committee being able to make a resolution at today's hearing. The discussions that had taken place concerned the conditions proposed by Sussex Police, which of those were acceptable and which were to be modified. It was now a case of how the current position would go forward and whether both parties would ask the Sub-Committee to make a formal resolution today or adjourn to allow the new owner of the premises to make changes. He requested a further adjournment during the hearing to allow discussions to continue.

(the hearing adjourned between 10.40am and 11.05am)

Mr Savill explained the current position of Sussex Police. He referred to the very detailed review application submitted by Sussex Police. For some considerable period of time the carrying out of the licensing activities at the premises had caused problems and the four licensing objectives had been undermined. It was noteworthy that in the documentation provided by the premises licence holder there had not been a significant challenge to the review as the new premises licence holder was intent on moving forward. He referred to the recent change of management at the premises and advised that there had not been any challenges to Mr Marshall's running of other premises in Chichester. It was a case of stepping into the unknown as the review was based on a history of the premises being run under a different management. Sussex Police were prepared to proceed having recognised the changes that had been made to the running of the premises and advised that the premises was on probation.

He referred to the conditions proposed by Sussex Police, set out on page 32 of the report, and the agreement reached by both parties. It had been agreed that within three weeks from today's hearing the premises licence holder will submit an amended application for the variation of the premises licence.

The proposed conditions are set out below:

Condition 3 – Second sentence amended as follows: “The system shall be operated at all times from within fifteen minutes of door staff commencing duty and all persons entering the premises will be scanned.”

Condition 4 – Agreed

Condition 6 – Amended as follows:

- Two Security Industry Authority (SIA) door supervisors to be on duty from 20:00 hours
- An additional two SIA door supervisors to be on duty from 21:00 hours
- An additional two SIA door supervisors to be on duty from 22:00 hours

Condition 7 – Agreed

Condition 8 – Agreed

Condition 9 – Agreed

Condition 10 – Agreed

Condition 11 – Agreed

Condition 12 – Agreed

Condition 13 – Agreed

Condition 14 – Agreed

Condition 15 – Agreed

Condition 16 – First sentence amended as follows: “Staff must ensure that all empty glasses and bottles are promptly cleared away from the public areas within the premises”

Condition 17 – Second paragraph amended as follows: minimum of 31 days changed to 28 days

Condition 18 – Not agreed: Sussex Police still maintain that it should be a condition on the premises. However the premises licence holder did not agree with this condition

He explained that Sussex Police recognise that a “new broom” was being swept at the premises and that there had been some substantial financial outlay that included the customer ID scanning equipment and additional door staff. He hoped that this would mean that the problems at the premises would cease. As the premises was on probation he advised that Sussex Police was prepared to agree to an adjournment of the hearing for a period of up to five months to allow monitoring how the premises was run under the new management. During the interim period Sussex Police were prepared to accept the current hours of licensing activity that

were on the current premises licence. This agreement by Sussex Police was conditional upon the problems ceasing to occur. If there was a repetition of the problems at the premises or new problems occurred Sussex Police would apply either for the adjournment to be lifted or would make a fresh review application. He confirmed that if any problems occurred at the premises during the adjournment period then Sussex Police would ask for the matter to be considered by the Sub-Committee. It was argued that this was a question of whether or not a suspension of the premises licence would be disproportionate. However, if the premises was managed well then Sussex Police may invite the Sub-Committee to take no further action. He confirmed that conditions 1, 2 and 5 had been put over.

Mr Clark advised that he was grateful for the constructive dialogue with Sussex Police, which had continued from the dialogue that had taken place during the last few weeks. He hoped that Sussex Police would not feel there was a need to come back to the Sub-Committee at all and that the problems had been put behind the parties. He drew attention to the new management at the premises.

Mr Clark agreed that a deferral for five months was the right way forward, subject to the Sub-Committee's agreement. He stated that the premises management would have regular discussions with Sussex Police during the interim period. With regard to condition 18 concerning membership of a Pubwatch Scheme (Chibac) he confirmed that the designated premises supervisor and premises licence holder were committed to Chibac and would be an active member. It was an issue if this was required as a condition on the premises licence. Although historically up and down the country this condition had been included in premises licenses, he questioned if this was the right thing to require a premises to be a member of a voluntary organisation or whether the scheme was best enforced through criminal sanction. If Mr Marshall and the management at the premises were not an active member of Chibac during the interim period the Sub-Committee could take action.

There was no practical difference of requesting this condition on the premises licence. To a certain extent it was a leap in the dark as, to an extent, the future was always unclear. A wide range of conditions had already been agreed and Mr Marshall had already taken a number of measures that included the installation of an ID scanner and these measures had already been put in place by the management.

He referred to the report on page 172 of the evidence submitted by the Vestry, which set out the results of the observations carried out at the premises by Chapter Three Consulting Ltd. The report had been produced by a retired police officer with 32 years' experience who had visited the premises on a Saturday. He hoped that the results had provided a reason to be confident about the future of the premises and that the action taken to resolve the issues that had occurred would allow a period of time to prove itself. He asked the Sub-Committee for the review of the premises to be deferred until after Christmas to enable Sussex Police to decide if they wanted to come back to the Sub-Committee or not.

Mr Savill stated that as the requirement for membership of Pubwatch scheme was already in the existing premises licence (condition 9) Sussex Police would not press for the inclusion of this condition as that condition was already effective.

In response to questions from the Sub-Committee Mr Savill explained that use of the radio link was a requirement of proposed condition 18 and that a requirement for door staff to headsets was not conditioned. Mr Clark advised that a radio link was already in operation, which worked through the Chibac system and confirmed that it would continue to operate. He reiterated his earlier comment questioning whether or not membership of Chibac could be required as a condition as it was a voluntary scheme. The Sub-Committee expressed themselves with this explanation.

Mr Potter commented that restricting the sale of alcohol to 22.30 hours and the opening hours to 23.00 hours would be counterproductive to an attempt to examine whether the management of the premises was suitable to achieve the licensing objective at this location. The Sub-Committee discussed this point further and acknowledged that they were convinced by the representations on the timing issue.

Mr Foord referred to the discussion that had taken place during the hearing. He was mindful that the Sub-Committee ultimately needed to consider and determine the application for a review of the premises licence. Whilst he applauded that constructive discussions had taken place the Sub-Committee still needed to consider all the options available to them. He advised that he was slightly unsure about the proposal to adjourn the hearing for a period of five months, as if the Sub-Committee accepted an adjournment then those changes could be effective with immediate effect and the need for the application may not be needed. It could be applied to the premises licence immediately if agreed.

Mr Savill advised that Sussex Police could review their position in respect of how the premises was being run. The Sub-Committee had the power to adjourn a hearing and he confirmed that this was what Sussex Police were requesting until such time in the new year.

Mr Foord pointed out that although Mr Savill and Mr Clark had requested an adjournment of the hearing, the Sub-Committee could if they wished make a decision based on the options set out in the report.

Mr Bennett confirmed that the Sub-Committee could adjourn the hearing and referred to the rules of Natural Justice, the local policy and the adopted procedure. He advised that the decision was reasonable to achieve the licensing objectives in his view.

Mr Clark agreed that Mr Foord had made very fair points. If the hearing was not deferred today then both parties would have to "roll up their sleeves" which may not lead to constructive discussions. He proposed that there should be a minor variation of the premises licence.

The Chairman sought confirmation that none of the parties or the Sub-Committee had any further questions. The Chairman advised that the Legal Officer would retire with the committee to offer legal advice.

The Members of the Sub-Committee then retired to make their decision.

RESOLVED

- (a) The Sub-Committee note the representation of the parties, written representations and the policies and the licensing objectives in particular prevention of crime and disorder;
- (b) The Sub-Committee considered the strong verbal arguments made by the advocates for both parties. In particular they noted representations about the need to establish a clear history or evidence pattern for the premises under what is a new, though recently changed, management;
- (c) The Sub-Committee notes the Premises acknowledgement that any adjournment is a probation period to assess their management practices and promotion of the licensing objectives;
- (d) The Sub-Committee also noted the Sussex Police representation as to working closely with the premises new management and their representations as to action which will be taken if future problems arise causing concern;
- (e) The Sub-Committee noted the premises outline of the intended application for minor variation and the representations of the advocates as to the new conditions.
- (f) The Sub-Committee noted with concern that the mediation on this matter took place so late. The Sub-Committee considers it a shame that this was not carried out some time ago rather than today;
- (g) On the basis of the above the Sub-Committee adjourn this matter to a date in January 2016.

The meeting ended at 12.05 pm

CHAIRMAN

Date: