

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 7 MARCH 2018

HOVE TOWN HALL, ROOM G90 - HOVE TOWN HALL

MINUTES

Present: Councillor ; Gilbey, Morris and Deane

Officers: Mylene Hayward (Environmental Health), Liz Woodley (Lawyer), Becky Pratley (Licensing Officer), Claire Abdelkader (Sussex Police), Gregory Weaver (Democratic Services Officer)

PART ONE

84 TO APPOINT A CHAIR FOR THE MEETING

84.1 Councillor Morris was appointed Chair for the meeting.

85 WELCOME & INTRODUCTIONS

86 PROCEDURAL BUSINESS

(A) Declaration of Substitutes

There were none.

(B) Declarations of Interest

There were none.

(C) Exclusion of the Press and Public

In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

RESOLVED - That the press and public be not excluded from the meeting during consideration of Item 84 onwards.

87 CHAPTER XIII LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

87.1 The Panel considered a report of the Executive Director, Neighbourhoods, Communities and Housing in relation to an application for a review of a Premises Licence for Chapter XIII, 11-12 Pool Valley, Brighton. Present at the hearing were: Rebecca Pratley, Jessica Stocker, Mylene Hayward, Clare Abdelkader and Liz Woodley.

Introduction from the Licensing Officer

87.2 The Licensing Officer highlighted the following:

- The application is for Temporary Event Notice for Chapter XIII, 11-12 Pool Valley for a birthday party. The TEN is for Sunday 1st April 2018 – Alcohol, Reg entertainment and LNR from 6pm-11:30pm on the premises only, for no more than 75 people at any one time. It is my understanding that visit by East Sussex Fire and Rescue Service to the premises yesterday recommended a capacity of no more than 60 people.
- The premises is within the Cumulative Impact Zone and currently does not have Premises Licence.
- This Authority received an application for a permanent premises licence for this venue on 28 February 2018. However the blue regulation 25 notice was not displayed correctly so the consultation period had to be restarted. The Application is therefore still in the 28 day consultation period now ends on 3rd April. A decision cannot be made about the premises licence until the end of the consultation period, therefore for the purposes of today's hearing, the premises does not currently have a premises licence.
- Licensing guidance advises that Police and Environmental Health have the opportunity to object to a TEN on the basis of any of the licensing objectives. Both the Police and Environmental Health have submitted notices of objection to this temporary event on the grounds of the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm. Both authorities are asking for a counter notice to be issued.
- If the Licensing authority receives an objection notice from the Police or EHA that is not withdrawn, (in the case of a standard TEN) it must hold a hearing to consider the objection. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice.
- Our records show that since 2015, in total, 18 Temporary Event Notices have been applied for 13 of these went ahead, the last of these was for Pride last year following a hearing held on 19th July 2017. The hearing was the result of an objection being made by EH, the panel resolved to allow the TEN to go ahead. I have copies of the minutes from that hearing if required. The subsequent event was shut down on the day by Police and Council officers due to overcrowding and noise issues.
- Of the 18 TENs, 5 were withdrawn following objection notices being served either by P or EH.
- Of the 13 TENs that went ahead, complainants were received by this Authority in respect of some of them, e.g. for a party in July 2015, a Halloween party also in 2015 and there have been issues with Pride in 2016 and 2017. The Environmental

Protection Team served a noise abatement notice in 2016 following issues relating to noise and Pride.

- The Licensing Team had an investigation that was closed yesterday regarding advertisements on Chapter XIII's website stating the venue is an event space with a full alcohol licence, with a capacity for 150 people. A joint visit by P, ESFRS and L was undertaken at the venue yesterday and an advice email was sent by Licensing. Fire put capacity at 60. I understand the applicant has agreed to amend the website.

Questions to the Licensing Officer

87.3 There were none.

Representations

87.4 Mylene Hayward, Environmental Health Officer, addressed the panel and stated the following:

- Insufficient information was given in the application. Chapter XIII had deliberately sought to mislead the authority
- The officer recalled the sequence of events at Pride 2016 in which Environmental Health was called to Pool Valley. An illegal event took place on a bus and at the coach station; police were tasked with closing down the party. She stated that events escalated and a noise abatement notice was served thus preventing further parties in Pool Valley; this was not appealed and remained in force.
- A brief timeline of the correspondence leading to the previous TEN application agreement was given.
- It was stated that there had been previous noise complaints prior to the event at Pride; specifically on 14th July 2015 and during a previous TEN in October 2015, as a result the manpower required to shut down the event was notably increased. Copies of the abatement notice and pics from pride 2016/17 were offered.
- A brief report on the events at Pride 2017 was given culminating in an agreement that only background music was to be allowed along with only drinking indoors and within the venue's drinking area was allowed, however picture evidence was produced showing that long afterwards people were still drinking in open areas. Security corroborated the party that engulfed the event at Pride and further noted that it took a long time to restore order to the area as a result.

87.5 In answer to questions from Councillors, Mylene Hayward confirmed the following:

- The TEN was approved for both on and off sales of alcohol.
- That a contentious event took place on Halloween weekend 2015.
- The legal officer confirmed that the noise abatement was in reference to preventing the noise not the party.

87.6 Clare Abdelkader, Sussex Police addressed the panel and stated the following:

- It was stated that a licence had not yet been confirmed despite its success in previous years.

- Concerns were raised that the application was for a TEN in the Cumulative Impact Zone and that the applicant would not promote the licensing objectives.
- A brief overview of previous offences that had been carried out by the applicant, it was noted that as a result crowd control and noise abatement efforts were made
- A specific concern was during Pride 2017 where a police inspection was carried out the night before, upon return to the premises for an evening inspection there were between 6-800 people facing toward a music system, security consisted of just 1 SIA member. This caused major disruption of coaches and of the highways, it was further noted that the applicant was reluctant to shut down the music. Security had implied that people had been drinking outside of the area. Following advice to clear bottles, music was then disallowed.
- It was stated the applicant had filed for more than one TEN application in the past and as a result Police expected more comprehensive information to mitigate pre-existing issues.

87.7 In response to Councillor's Questions, Sussex Police, Environmental Health confirmed the following:

- The noise abatement notice was not pursued as the source was not from inside the property that was being inspected
- Environmental Health clarified that a breach of a noise abatement notice has to be witnessed from inside someone's home.
- Sussex police gave a comprehensive list of details omitted from the application. This included who's birthday the application was for, detailed information of the where the party was to take place, i.e. inside/outside, no risk assessment was submitted, clarification was sought on whether alcohol consumption was to be allowed in the smoking area, would polycarbonate or plastic drinking vessels be used? Sussex Police further enquired which email address any info was sent to.
- Environmental Health confirmed that they would have welcomed information similar to that requested by Sussex Police.

Representation from the Applicant

87.8 Ms Stocker addressed the Panel and made the following points:

- Applicant clarified which email address correspondence had been sent to and provided the panel with further documentation including an email chain addressing some of the concerns held by Sussex Police and Environmental Health.
- An apology was issued in regards to previous misdemeanours regarding events at Pride
- The applicant re-affirmed that the requested Temporary Event Notice was not for an event on the scale of Pride
- It would be guest list only
- Stated that any analogy to Pride was unfair.

- It was stated that outside space is fenced off and is only for smokers. Only 30 people were invited for this event.
- The applicant stressed that there would be no outside music, only inside.

87.9 In response to questions, the following was confirmed by the applicant:

- In response to Councillor Deane, the applicant stated that providing a draft copy of the information was not a legal requirement
- Applicant stated that the venue's website had been up and running for 3 years, she further noted that the fire authority had only recently informed her of the attendance limit following a recent inspection
- The applicant was not sure what date her licence was issued
- It was confirmed that Paul Whitehead provided the licence training, it was noted that this training was more focused on DPS personal licence information. It was further noted that there was less discussion regarding TENs
- The applicant apologised for the confusion regarding her online application
- The Legal advisor stating that the applicant was correct in stated that a DPS is not needed for a TEN
- In response to Councillor Morris, the applicant stated that there was no intent to mislead people in regards to the stated venue capacity and that the issue was instantly dealt with once it was revealed
- It was stated that the venue owns licence for both the raised platform on wheels outside and the inside fencing.
- The Environmental Health Officer stated that Highways had confirmed that the applicant had a licence for 2.8x5.8 which was the area marked on the plans of external use
- Legal confirmed to Councillor Gilbey that if the licence exists, then the applicant is allowed use of the area including that by the fencing
- The applicant stated that they would be happy to move things round to alleviate any issues
- It was established that ID checks were needed for the bar
- There are between 25-30 covers daily including outside space depending on the time of the year
- No children were allowed in
- Legal confirmed that the applicant did not need a licence for refreshments up till 11pm
- The applicant further noted that the half hour extra after 11 is for closing down the venue and to deal with any issues that might arise
- Sussex Police responded to Councillor Morris' enquiry, that a TEN only covers licence of activity and not closing time, they further stated that they would have liked to have received the information handed out by the applicant prior to the TEN. It was further stated music wouldn't be allowed at this time anyway
- The applicant confirmed there had been some issues in 2015, she stated that she had an issue with the wording of the report however she generally agreed with it. She stated that the venue agreed to lower noise levels and agreed with the previous requests to change various items.
- The applicant clarified that people attending will be much older than 25 in response to the notification of the change in ID checking policy.

Summaries

87.10 The presenting Licensing Officer summarised and highlighted the following:

- In accordance with section 105 of the Licensing Act, where an objection notice is given by the Environmental Health team and/or the police, the licensing authority must hold a hearing. You have heard from all relevant parties present regarding the TEN notification
- The Licensing Authority must having regard to the objection notices, either decide to allow the licensable activities or give the premises user a counter notice under sub section (2B) if it considers it appropriate to do so for the promotion of licensing objectives
- It must give the premises user the counter notice together with a statement of the reasons for its decision and give any other relevant person a copy (in this instance, the Police and EHA)
- If the licensing authority decides not to give a counter notice it must provide the premises user and any other relevant person with a notice of a decision
- All these requirements must be met at least 24 hours before the beginning of the event period specified in the Temporary event Notice

87.11 Clare Abdelkader summarised on behalf of Sussex Police and stated the following:

- This is an application for a TEN however as a minimum of information was provided to the police, this raised concerns.
- It was stated that there was no pre-consultation, further to this Sussex Police recommended a counter-notice.

87.12 The Applicant summarised and stated the following:

- The objective was to stick to the licensing objectives and not to purposefully undermine the application.
- A low number of people are expected to attend this invite only event
- The applicant stressed that this was not a situation comparable to the events of Pride as had been earlier described
- She enquired that if this application is refused, would this set a possible precedence for future premises licence applications?

87.13 The legal advisor stated that each application is dependent on its own merits but also that previous history is taken in to account.

Decision

87.14 The decision was sent to all parties on 7 March 2018. The decision was as followed:

“Having considered the objections and submissions from Sussex Police and the Environmental Protection Officer, and submissions by the Premises User, the Licensing Panel (Licensing Act 2003 Functions) resolved to give the Premises User a counter notice. The effect of this counter notice is to prevent the event from going ahead.

The panel considered that the issue of a counter notice was appropriate for the promotion of the following licensing objectives –the prevention of public nuisance, the prevention of crime and disorder and public safety.

The Panel share the Police and Environmental Protection Officer's concerns about the location and timing of the event. The premises are located in the Cumulative Impact Area as identified in the Statement of Licensing Policy. This area of the city centre experiences problems of crime and disorder and public nuisance due to the concentration of licensed premises within it. Extension of licensable activities is likely to add to problems in the area and impact negatively on the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

The premises were located in Pool Valley, adjacent to the coach station. The coach station was likely to be busy on Easter Sunday, 1 April, and based on previous events organised by the Premises User at the Premises, the Panel did not have confidence that the event would not interfere with the lawful use of the coach station. They were also concerned about the Premises User's ability to manage noise from the event, and alcohol being taken off the premises. The Panel also have concerns about the scale of the event. The Temporary Event Notice indicated a maximum of 75 people at the premises at any one time, but the East Sussex Fire & Rescue Service had recommended a maximum of 60.

The minutes of the panel will be available on the Council's web-site under the rubric 'Your Council'.

Appeal Rights

Where a counter notice has been given, the Premises User may appeal that decision. The appeal must be made to Magistrates' Court, within 21 days of notification of the decision.

No appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins."

The meeting concluded at 12:00pm.

Signed

Chairman

Dated this

day of