

**LICENSING REVIEW SUB-COMMITTEE
24 APRIL 2014**

Present: Councillors Dowling, Poole (in the Chair) and Webb
with Councillor Cooke in reserve.

9. APPOINTMENT OF CHAIR

In accordance with the terms of reference of the Licensing Committee, the Chief Legal Officer invited nominations for the appointment of Chair for the duration of the meeting. Councillor Dowling moved that Councillor Poole should take the Chair. This was seconded by Councillor Webb.

**RESOLVED (unanimously) that Councillor Poole be appointed as
Chair for the duration of the meeting.**

10. DECLARATIONS OF INTEREST

Councillors Dowling and Webb declared their personal interest in item 6, Spice Rock, White Rock, Hastings. Councillor Dowling declared he knew the applicant and Councillor Webb declared he was County Councillor for the area and attended local events.

**11. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE: BAR
MODA, QUEENS ROAD, HASTINGS**

Councillor Poole set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), all parties confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on an application for the review of the premises licence for Bar Moda, 206 Queens Road, Hastings.

Mr Brown, Licensing Manager, presented the report.

Mr Steeds, Principal Environmental Health Officer, who brought the review made his submission on the grounds of the Prevention of Public Nuisance. He referred to the history of complaints received from local residents regarding noise disturbance at the premises which commenced in February 2013. He said Council Officers also witnessed noise whilst visiting neighbouring properties and nearby streets. Officers requested that complainants keep noise diaries to log the incidents, these were appended to the report under Appendix B of the agenda.

Mr Steeds said he met with Mr and Mrs Martin, the Licensees of Bar Moda, in 2013 and together they worked to make improvements to resolve the issues. The last complaint was received on 5th April 2014. By this date, the required works had been completed to keep noise inside the premises. Mr Steeds

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recommended two new conditions be imposed on the licence to restrict licensable activities in relation to live and recorded music.

Alex Freeman, representative for Mr and Mrs Martin referred to an extensive list of works that had been completed at the premises to resolve noise issues. He informed the Committee that since January Mr & Mrs Martin had been in the process of obtaining consent from their landlord to carry out the works. Furthermore, he said Mr & Mrs Martin took very seriously the complaints and advice given by Officers and remedied the situation as soon as they were able, as exemplified by the management structure they had introduced.

Mr Martin reiterated the works that he had arranged at the premises and distributed a noise prevention procedure check list for the Committee to view.

Councillor Dowling sought clarification on the times the tables and chairs were removed from public use. He received assurance from Mrs Martin that the tables and chairs were removed before each event, or if there was not an event, the tables were removed at 11pm.

Councillor Webb asked if visiting DJ's were supervised and briefed on noise levels. Mr Martin said he oversaw each event and had introduced a sound limiter, which if they did not consent to, he would not hold the event.

In his summary, Mr Brown stated that matters relating to tables and chairs on the highway were managed by East Sussex County Council

RESOLVED (unanimously) that, the Sub-Committee has decided to modify the conditions of the Licence as follows:-

- 1. Live music to be background only and no more than barely audible outside the confines of the building.**
- 2. Recorded music to be background only and to be no more than barely audible outside the confines of the building.**
- 3. Noise from live music shall be no more than barely audible outside the confines of the building as perceived by an authorised officer of Hastings Borough Council. Where there has been a breach of the condition, the Premises Licence Holders shall be required within 4 weeks to make arrangements to demonstrate to the Licensing Manager that there is compliance with this condition. In the event of it being found that the condition is not being met and cannot be met by adjustments to the settings for music playing equipment then further sound attenuation measures shall be taken within 8 weeks.**
- 4. Noise from all mechanical or electrical equipment used on the premises shall not be audible as perceived by an authorised officer of Hastings Borough Council outside the confines of the building.**

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- 5. Where the premises operates with recorded or live music after 21:00 hours all doors and windows to remain closed, save for access and egress.**
- 6. There shall be no use of external tables and seating after 23:00 hours and all such tables and seating shall be removed by that time every evening in line with the provisions of the licence issued by East Sussex County Council.**
- 7. A tamper-proof noise limiting device shall be installed (and maintained). All amplified equipment used at the premises must be connected through the said noise limiter.**

Reason - The Licensee has worked with the Council's Environmental Health Officer to address the noise issues at the premises.

The Committee are pleased to note the extensive work carried out by the Licensees to uphold the Licensing Objective of Public Nuisance, and the resulting reduction in noise complaints.

The meeting adjourned for a 10 minute break.

12. APPOINTMENT OF CHAIR

Having declared her prejudicial interest, Councillor Poole left the meeting for item 6, Spice Rock, White Rock, Hastings. In accordance with the terms of reference of the Licensing Committee, the Chief Legal Officer invited nominations for the appointment of Chair for the remainder of the meeting. Councillor Webb moved that Councillor Dowling should take the Chair. This was seconded by Councillor Cooke.

13. APPLICATION TO VARY PREMISES LICENCE: SPICE ROCK, 43 WHITE ROCK, HASTINGS

Councillor Dowling set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), all parties confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on an application to vary the premises licence at Spice Rock, 43 White Rock, Hastings.

Mr Brown, Licensing Manager, presented the report to the committee as a result of representations received. The report referred to an application which sought consent to vary the premises licence by removing conditions applicable to the former Smugglers licence. He advised the committee that the operating schedule on page 111 of the agenda had not been completed by the applicant.

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Sally Nicholls, Principal Environmental Health Officer – Food Safety, referred to her objection to the application. She raised concern that the proposed work would lead to food safety problems and possible contamination due to the poor design of the workflow and insufficient food storage and preparation areas. She said there were issues within the locality regarding the infestation of rats and cockroaches. As such, she proposed a number of conditions be added to the application if granted. She went on to say that she had recently spoken with the applicant and he had agreed to a number of her recommendations.

In addition to Spice Rock, she stated that Mr Rahman was previously responsible for 177a Queens Road, a premises which that had been the subject of a Emergency Hygiene Prohibition Order preventing the use of the premises as a food business. Following prosecution, Mr Rahman agreed to voluntary closure after a complaint was received by Officers. She confirmed the premises was no longer trading.

Mr Scott Hartnell, from Hastings Community Fire Station raised concern regarding the means of escape and passage way at the side of the premises. He said the disabled escape was too narrow and people would be unable to pass. Concerns were also identified regarding inward opening doors; the staircase and lack of fire retardant windows. He also mentioned there were concerns regarding the 2nd and 3rd floors, but these issues were the responsibility of Building Control. In its current condition, he advised that there were public safety issues and that people would be at risk of injury if a fire occurred at the premises. Mr Hartnell proposed a condition to restrict licensable activity to the ground floor only and limit the maximum number of people on that floor to 60.

In the absence of a representative from the Sussex Police Authority, Mr Brown read their letter of comment which recommended a number of conditions be transferred onto the premises licence if consent was granted.

In his submission, Mr Rahman referred to the issues mentioned and reassured the committee that the work would undertaken to the satisfaction of the Environmental Health Officer. Mr Rahman said he had employed an architect to work with the builders and Building Control.

The Architect said he was aware of the comments put forward by the Fire Officer and would work to satisfy the conditions raised by him. Furthermore, any additional items requested by Building Control would be addressed and completed to their satisfaction.

Mr Rahman said he would open the premises when the Fire Service were satisfied.

Mr Hartnell asked Mr Rahman if he had dealt with the Building Control concerns. The Architect replied on behalf of Mr Rahman and confirmed the list of Building Control objections would be addressed and there were no

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problems from his client having the works completed. Essentially they would not open the premises until clearance was given by Building Control and written confirmation received to confirm the works were acceptable.

RESOLVED (unanimously) that the application be GRANTED, subject to the following conditions:-

- 1. The proprietor must engage a competent pest control company before opening to advise on required pest proofing measures and set up an ongoing pest control contract to monitor and treat any pest activity.**
- 2. An additional deep sink must be installed if a commercial dishwasher is not made available.**
- 3. The basement must not be used as a food store.**
- 4. Additional food preparation space should be designed into the kitchen to ensure separation of raw and ready to eat foods.**
- 5. Refuse collections from the business should be of sufficient frequency to ensure there is no build up of refuse, which would attract pests to the premises.**
- 6. The premises will not conduct over the bar sales of alcohol.**
- 7. Alcohol will only be sold/supplied on the premises to persons seated at a table by waiter/waitress service.**
- 8. A 'Challenge 25' policy be adopted and only photographic ID such as a passport, driving licence, proof of age standards scheme (PASS) cards and citizen cards be acceptable. Staff are to be trained to request the appropriate ID from anyone who appears to be under the age of 25 years, and that alcoholic drinks are refused unless that ID is produced.**
- 9. A refusals register shall be kept near the point of sale and all refusals shall be recorded. The DPS shall take responsibility for training staff in the use of the register and will regularly check to ensure entries are being made. The register will be made available to representatives of Sussex Police or licensing Authority when requested.**
- 10. Alcohol will only be sold/supplied in a sealed container as part of a takeaway/home delivery meal. The minimum cost of a food order, before alcohol is supplied, for takeaway being five pounds (£5) and for home delivery being ten pounds (£10).**
- 11. No food or alcohol will be delivered to anywhere other than a recognisable permanent business or residential address.**
- 12. Concerning the supply of alcohol as a result of telephone/internet sales (ancillary to a takeaway/home delivery meal):**
 - 1. Each delivery to be signed for as proof of receipt and by whom. The delivery driver to make the requirement for the production of the appropriate photographic identification.**

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If persons believed to be under 25 years of age, courier drivers will refuse to deliver the alcohol order unless suitable proof of age/identity is produced at time of delivery.

- 2. The web site used for advertising and accepting orders shall promote responsible drinking and clearly explain possible offences of buying alcohol for a person under 18 years of age, and purchasing alcohol when aged under 18 years.**
 - 3. Customers who placed an order either by telephone/internet are to be advised of the delivery procedure.**
- 13. To restrict the licensable activity to the ground floor only and restrict the number of people on that floor to a maximum of 60 (to include staff) until a Building Completion Certificate is issued and served on East Sussex Fire and Rescue and the Licensing Authority and they are both satisfied that all necessary conditions are met.**

Reason - The Committee have listened very carefully to all submissions and believe that with the proposed conditions included on the licence the Licensing objectives will be upheld.

The Committee have had regard to the Council's own policy and guidance issued by the Secretary of State.

(The Chair declared the meeting closed at 12.29pm)