

LICENSING SUB COMMITTEE

6 AUGUST 2015

Present: Councillors Sinden, Batsford, Street (Chair) and Webb

16. 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 Item 17, Grand Elektra. Councillor Webb proposed that Councillor Street should take the Chair, which was seconded by Councillor Batsford.

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

17. MINUTES OF THE MEETING HELD ON 26 MAY AND 8 JUNE 2015

RESOLVED that the minutes of the meeting held on 26 May 2015 and the minutes of the meeting held on 8 June 2015 be received and signed by the Chair as a correct record

18. APPLICATION FOR A PREMISES LICENCE: GRAND ELEKTRA, 53-57 ROBERTSON STREET, HASTINGS

Councillor Street set out the procedure that the sub-committee would adopt (in accordance with standard practice), all parties confirmed they understood this.

The Assistant Director Environment and Place submitted a report on an application for a premises licence at Grand Elektra, 53-57 Robertson Street, Hastings. An objection had been received from the Police under the licensing objective for the prevention of crime and disorder.

Mr Brown, Licensing Manager, presented the report and gave an overview of the application. On 23 June 2015, the council had received an application for a new premises licence for the ground floor and basement of 53 – 57 Robertson Street, Hastings from Mr Oliver Ibrahim, a Director of Invest Nightlife Ltd. The premises were located on the site of the former West Exit Club and Electric Stag Bar. The Licensing Sub-Committee had previously rejected an application for these premises at their meeting on 8 June 2015.

Some additional supporting information from Invest Nightlife Ltd was circulated to members of the committee prior to the meeting, but did not form part of the formal documentation for the agenda.

Mrs Jean Irving, Head of Licensing and Public Safety for Sussex Police introduced the Police's representation against the application, on the grounds that the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance would be undermined. She explained that the premises were located within Area 1 (town centre) of the Council Special Saturation Policy (Cumulative Impact), and

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it was therefore only possible to grant permission for a new venue under exceptional circumstances. Mrs Irving stated there was nothing further that the applicants could have added to their operating schedule to improve it further.

Following the Licensing Sub-Committee meeting on 8 June 2015, the Police had attended a site meeting with the applicant and environmental health officers to discuss the potential operational management of the club premises in relation to the four licensing objectives. In his representation, Chief Inspector Phelps, the Hastings Police Commander, acknowledged the efforts of the applicant to address the issues raised by their last application.

Mrs. Irving explained that particular consideration had been given to the security measures in place at the venue. A state of the art CCTV system had been installed at the premises, together with an electronic scanning device to record the identification of patrons. Mrs. Irving commented that such measures had proved effective in other areas in combatting crime. Due to the complex layout of the premises, which had previously been divided into two venues, the ratio of staff to patrons had also been considered and the Police had agreed minimum operating numbers with the applicant.

However, the Police stated that the concentration of late night premises in this part of the town caused problems of crime and disorder, and by its nature a new nightclub would create additional noise and disruption. By extending the opening hours of the premises, other nearby venues may submit similar applications to extend their opening times.

The applicant had agreed to additional conditions to limit the promotion of cheap alcoholic drinks and to ensure that alcohol was not advertised, visible or available for sale at events where people under 18 years of age would be in attendance.

If the application were granted, Mrs. Irving stated that the new premises would be closely monitored by the Police. She invited the committee to refuse the application.

The applicant, Mr Oliver Ibrahim, made a submission to the committee. He explained that he had not appealed the Licensing Sub-Committee's decision of 8 June 2015, and instead had taken a pro-active approach by working with key agencies to address the issues raised against that application. He explained that the new application was substantially different to the previous proposal, and addressed the concerns raised in earlier representations.

Concerns had previously been raised about combining two previously separate venues, and the additional noise disturbance this could create, it was therefore proposed to limit live music and club nights to the basement area.

Mr Ibrahim highlighted that the electronic identification scanning system which had been installed at the premises was in keeping with the licensing objective to ensure public safety. The system also had the ability to share alerts with other venues using similar ID scanning equipment. As an exception to using the ID scanning equipment, the name and date of birth of customers who appear to be over the age of thirty, without ID, shall be recorded and a photographic image obtained.

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A dismissal and ejection policy for the premises had also been included within the application. The applicant commented that the ratio of door supervisors to patrons on busier nights and special promotions was twice the recommended minimum number, which was intended to overcome any difficulties which may be caused by the usual layout of the venue.

To help reduce the possibility of public nuisance, a no re-entry policy would be in force at the venue after 2.00am. An ATM would also be installed at the premises to limit the number of people circulating in the town centre and mitigate the impact of the premises on the cumulative impact policy for the area.

Mr. Ibrahim continued that the new venture would bring significant investment to Hastings, promote tourism and the continued regeneration of the town centre. Fifty jobs would be created by the new venue; twenty three members of staff had already been employed. The new venture had received several letters and emails of support from the local community, including the Student's Union of the University of Brighton. Indeed, the Student's Union had placed a number of provisional bookings for the use of the venue for their events, if the premises licence was granted.

Members asked a number of questions of the Mrs. Irving and Mr. Ibrahim regarding the proposed management arrangements for the premises and the impact of a new venue on the town centre.

RESOLVED (unanimously) to grant the application, with the following conditions:

All the conditions as detailed in the applicant's operating schedule, plus the following:-

Live music and club nights should be restricted to the basement 'crypt' area of the premises.

Any incidental background or piano (lounge) type music in the area of the premises known as 53 Robertson Street, shall be restricted to a level barely audible at the frontage of the nearest noise sensitive premises.

Regular checks to be made to ensure there is no serious breakout of sound at the premises.

External access to the area known as number 53 be restricted after 23:00hrs as per the recent application.

No deliveries or removal of glass/rubbish etc take place before 07:00hrs or after 23:00hrs.

And an amendment to the conditions on page 44 to read:

'During the events that will have an attendance of under 18's, no alcohol will be advertised or visible to young persons nor available for sale'.

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The reason for this decision was:

The Committee have listened very carefully to all representations and are satisfied that the applicants have made substantive and significant changes to their previous application which in the committee's view addresses the possible negative effects of Cumulative Impact.

The applicants have worked constructively with all agencies to achieve this outcome. The Committee are particularly impressed with the applicants commitment to patrons safety for example: the ID scanner; no drinks promotions, and the dispersal policy.

The Committee recognise the concerns expressed by the police, however it believes that the comprehensive application merits approval because it addresses these concerns.

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

The Chair adjourned the meeting at 10.45am, to be re-convened at 2.00pm

RE-CONVENED MEETING AT 2.00PM

Present: Councillors Batsford, Charlesworth, Roberts (Chair) and Sinden

19. 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 item 20, application to review premises licence: Moscwichka, 1A Pevensey Road, St Leonards on Sea and item 21 four temporary event notices with Police objection. Funky Buddha. Councillor Charlesworth proposed that Councillor Roberts should take the Chair, which was seconded by Councillor Sinden.

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

20. APPLICATION TO REVIEW A PREMISES LICENCE: MOSCWICHKA, 1A PEVENSEY ROAD, ST LEONARDS ON SEA

Mr Bob Brown, Licensing Manger, advised the committee that he had received an email from the Ms Jenya Dimitrova, the premise licence holder for Moscwichka, stating that she would not be attending the hearing. In the email, Ms Dimitrova said that she had found a new sub tenant to take over the lease of the shop, and requested that the premises licence remain in place to enable this. A copy of the email was circulated to the committee for them to consider.

The Chief Legal Officer advised that under the Licensing Act 2003 (Hearings) Regulations 2005, the hearing may proceed in the absence of a party, when that party had informed the authority of non-attendance. Councillor Roberts proposed that the

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hearing proceed in the absence of the premises licence holder, which was seconded by Councillor Charlesworth.

RESOLVED (unanimously) that, in accordance with the Licensing Act 2003, the hearing will proceed in the absence of the premises licence holder.

Mr Brown presented the report of the Assistant Director Environment and Place on an application to review a premises licence for Moscwichka, 1A Pevensey Road, St Leonards-on-Sea. On 23 June 2015, the council had received an application for a review of an existing premises licence for Moscwichka from Mr Graham Wolstenholme, Senior Trading Standards Officer, East Sussex County Council Trading Standards Service. The application was made under Section 51 of the Licensing Act 2003.

Mr Wolstenholme addressed the committee; he explained that the review was in pursuit of the licensing objectives for the prevention of crime and disorder and to ensure public safety. Trading Standards had carried out a visit to the premises on 4 November 2014, during the visit they had found and seized a large quantity of illicit and counterfeit cigarettes. The cigarettes had been hidden behind a false wall on the premises; Trading Standards officers also noted that the counter in the shop had been modified to conceal the products from view. The Premises Licence holder and Designated Premises Supervisor for Moscwichka is Ms Jenya Dimitrova. Ms Dimitrova is also the secretary and a 50% shareholder of H G Foods Limited, which operates shops in St Leonards-on-Sea, Eastbourne and Royal Tunbridge Wells.

Some restricted material from Trading Standards, which was not part of the formal documentation for the agenda, was circulated for the committee to read.

Mr Wolstenholme provided samples of the seized cigarettes for the committee to view. He explained that the cigarettes did not meet the requirements of the Tobacco Products (Manufacture Presentation and Sale) (Safety) (Amendment) Regulations 2007 for the use of colour photographs to depict the consequences of smoking and for the labelling on the packets to be in the official language of the country they would be marketed in. UK duty tax had also not been paid on the cigarettes which indicated that they had been smuggled into the country.

Mr Wolstenholme submitted a transcript of a recorded interview with Ms Dimitrova on 20 November 2014. In the interview, Ms Dimitrova said that she has little or no contact with her shops, of which she is DPS. She adds that she applied for the DPS as she was the only one capable of passing the relevant tests. Ms Dimitrova claimed that she knew nothing of the illegal cigarettes found on her premises, and that the cigarettes in question had been sold by the shop manager without her knowledge.

A further transcript of an interview with Mr Levon Hovakimyan on 3 February 2015 was submitted. Mr Wolstenholme explained that Mr Hovakimyan identified himself as the manager of the shop. Mr Hovakimyan stated that he had been selling the illegal cigarettes for approximately one and a half months to people from Eastern European backgrounds; he also admitted hiding the cigarettes to prevent Trading Standards from finding them.

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Further visits by Trading Standards and Her Majesty's Revenues and Customs to the stores operated by HG Foods Limited in Eastbourne and Royal Tunbridge Wells had uncovered supplies of illegal cigarettes.

At its meeting on 27 August 2014, the Licensing Sub-Committee of Tunbridge Wells Borough Council had removed Ms Dimitrova as the DPS of the shop operated by H G Foods Limited in Tunbridge Wells. Mr Hovakimyan had since been appointed as the DPS of that store and Trading Standards had contacted Tunbridge Wells Borough Council to advise that he was not a fit person to hold that position. On 29 July 2015, the Licensing Act Sub-Committee removed Ms Dimitrova as the DPS of the Eastbourne store, and revoked the premises licence.

Mr Wolstenholme said that Trading Standards was seeking a revocation of the premises licence for Moscwichka, as Ms Dimitrova either lacked sufficient control of her premises as the DPS and /or was complicit in the sale of illegal tobacco products.

Mr Trevor Scrase, Senior Licensing Office, made a submission to the committee in support of the review of the premises licence for Moscwichka. He explained that the premises had recently been renamed Ocean 3.

Mr Scrase stated that in 2013 and 2014 the licence holder had been late paying their annual fee and had also failed to notify the licensing authority following a change of address. He commented that, although these incidents were not sufficient to necessitate a review of the licence, they did provide further evidence that the premises were poorly managed. Mr Scrase added that, at the time Ms Dimitrova made her application to become a DPS, she did not indicate that she was acting on behalf of anyone else.

In summarising the report, Mr Brown highlighted recent guidance from the Secretary of State which stated that Licensing Authorities should take appropriate action to deter the sale of illegal tobacco and alcohol.

RESOLVED (unanimously) that the licence be revoked and the DPS be removed.

The reason for this decision was:

The Committee have listened very carefully to all the evidence before it.

The lack of management and sale of smuggled tobacco products (which were hidden) at the premises has been systemic with all 3 premises that the company have run.

There were further failings for example, failure to notify change of the DPS address and trading name and the illegal sale of DVD's.

The Licensing Committee have had regard to guidance issued by the Secretary of State and its own Licensing Policy.

The Chair adjourned the meeting at 3.00pm, to be re-convened at 4.00pm

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RE-CONVENED MEETING AT 4.00PM

Present: Councillors Batsford, Charlesworth, Roberts (Chair) and Sinden

21. **FOUR TEMPORARY EVENT NOTICES WITH POLICE OBJECTION. FUNKY BUDDHA**

Mr Bob Brown, Licensing Manager, advised the committee that the applicant would not be attending the hearing.

The Chief Legal Officer advised that, under the Licensing Act 2003 (Hearings) Regulations 2005, the hearing may proceed in the absence of a party, when that party had informed the authority of non-attendance. Councillor Charlesworth proposed that the hearing proceed in the absence of the applicant, which was seconded by Councillor Sinden.

RESOLVED (unanimously) that, in accordance with the Licensing Act 2003, the hearing will proceed in the absence of the applicant.

Councillor Roberts set out the procedure that the sub-committee would adopt (in accordance with standard practice) all parties confirmed they understood this.

Mr Brown presented the report of the Assistant Director Environment and Place; on 29 July 2015 the council had received notification to hold four temporary events at Funky Buddha Nightclub, 20 Robertson Street from Mrs Louise Jeffery under section 100 of the Licensing Act 2003. An additional application for a late temporary event to take place on 9 August 2015 had also been received. However, as the application was made only 7 working days before the event, and had received a police objection, the notice failed automatically.

Mr Brown advised that the premise does not currently hold a premises licence under the Licensing Act 2003. The previous licence holder, Parkers Brasserie Ltd, had been dissolved on 19 May 2015, and the licence had lapsed on 16 June 2015.

A copy of correspondence from the applicant's solicitor was circulated to the committee for its consideration. The applicant's solicitor put forward a series of undertakings which could be applied to the temporary event notice. However, it was considered that as there was no current licence for the premises and the undertakings had not been signed by the applicant, it was unlikely that these could be enforced by the Police or Licensing Authority.

Sergeant Vokins presented an objection on behalf of the Sussex Police. He explained that since the previous premises licence had lapsed, the operators had continued to carry out licensable activity at Funky Buddha. The Police had visited the premises on 22 and 23 July 2015, and confirmed that it was still operating. During their visit on 23 July 2015, the Police had found that the premises CCTV system had not been operational for the past seven days.

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Sergeant Vokins supported earlier comments that the undertakings offered by the applicant's solicitor would not be enforceable. He commented that the premises were located in Hastings town centre, where a Special Saturation Policy (Cumulative Impact) was in force, which demonstrated Police concern at the high density of license premises in this area and the potential impact on crime and disorder. The timing of the events would also coincide with what was already a peak time for anti-social behaviour.

Sergeant Vokins stated that Mrs Jean Irving, the Head of Licensing and Public safety, had been misquoted in an earlier letter from the applicant's solicitor, where it had been stated that she had discussed possible undertakings with the applicant. Instead, she had referred them to Mr Tony Masters, Licensing Officer at Sussex Police.

Members asked questions of Sergeant Vokins and Mr Brown.

RESOLVED (unanimously) that the application for Temporary Event Notices be refused

The reason for this decision was:

The Committee heard that the applicants have been running the premises without a licence for some time. The police witnessed this on 22 and 23 July. Whilst the applicants have offered undertakings these are not enforceable if breached. This undermines the Licensing Objectives.

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

(The Chair declared the meeting closed at. 5.00 pm)