

**LICENSING REVIEW SUB-COMMITTEE  
25 OCTOBER 2011**

Present: Councillors Bird, Finch and Roberts (in the Chair) with  
Councillor Dowling in reserve.

**16. APPOINTMENT OF CHAIR**

In accordance with the terms of reference of the Licensing Committee, the Senior Lawyer invited nominations for the appointment of Chair for the duration of the meeting. Councillor Finch moved that Councillor Roberts should take the Chair. This was seconded by Councillor Bird.

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

**17. MINUTES**

**RESOLVED – That the minutes of the meeting held on 11 April  
2011 be approved and signed by the Chair as a true record.**

**18. DECLARATIONS OF INTEREST**

Councillors made no declarations of interest at this meeting.

**19. REVIEW OF A PREMISES LICENCE: THE LONDON TRADER  
PUBLIC HOUSE, 4-7 EAST BEACH STREET, HASTINGS**

Councillor Roberts set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), both the applicant and the interested party confirmed they understood this.

The Corporate Director, Environmental Health, submitted a report on a review of The London Trader Public House, 4-7 East Beach Street, Hastings, as a result of representations received.

Mr Brown, Licensing Manager, presented the report, he explained that a representation had been received from a local resident, but had been withdrawn because of fear of reprisals.

Mr Alan Aylott, from Dadds LLP Licensing Solicitors, representing the licence Holder, Mr Foot was present. Mr Aylott requested the meeting be adjourned and referred to the contents of his letter dated 21<sup>st</sup> October 2011. He said that further documentation and CCTV footage relating to the hearing had been served on his client, Mr Foot, by Mr Bell, Principal Environmental Health Officer on 21 October, one full working day before the hearing was due to take place. Included in the paper work were two witness statements dated 7 June 2011 and 25 August 2011, which Mr Aylott suggested had been in possession of the Environmental Protection Team for some considerable

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time. Furthermore, he added that several letters submitted by local residents alleging noise from the London Trader had been redacted. As such, he said they were entitled to know the identity of accuser and the details should be disclosed. He went on to say, they did not know if the complaints were based on a grudge against the licence holder or if the complaints were coming from other Public Houses in the area, therefore the licence holder could not investigate or remedy the problem if details of the complainants' were not provided.

In his response, Mr Bell, the Principal Environmental Health Officer, who brought the review, said the documents were delivered by a Council Officer to Mr Foot on Thursday 20 October, not Friday 21 October as Mr Aylott had stated. He said the additional information provided to Mr Foot was no more than amplification of the information contained within his request for the review and did not contain anything new. This information comprised of Witness Statements from Stewart Bryant (22/23 April 2011), Mr Bell (29/30 July 2011), and Trevor Scrase (05/06 Aug 2011) and a copy of a DVD for 5/6 August together with letters sent to Mr Foot on 23 August 2010, 17 February 2011 and 15 April 2011; copies of emails dated 28 April 2011 which had been attached to the review request but were not included in the Committee papers. In addition he advised Mr Foot that diary sheets submitted by 2 local residents between 2 April 2001 and 2 October 2011 would be transcribed for presentation to the Committee and a copy would be given to him prior to the hearing.

Mr Bell said Mr Foot did not respond to his letters, he referred to his email communication with Mr Foot dated 28 April 2011, when Mr Foot claimed he had tried to contact him without success. Mr Bell confirmed that no communication had been received from Mr Foot by telephone or e-mail.

Mr Bell said he believed the adjournment had been requested because Mr Foot did not instruct his legal representative, Mr Aylott, until Friday 21 October and that Mr Foot had more than ample time to prepare his case and seek legal advice and representation, having already been granted an adjournment from 6 October 2011. He said that guidance had been properly followed and it would be unfair to those living in the vicinity if the hearing was to be further delayed.

Mr Brown clarified the position regarding Hastings Borough Council policy concerning the release of personal details, he said that information can be withheld in exceptional circumstances. He referred to a case that was considered 2 years ago, within 50 yards of the Old Trader P.H, whereby a local resident made a representation and the residents made her life so unbearable she moved out of her property with assistance from the police. Having regard to this case, the objector felt fear of similar reprisals and was aware that by withholding her details her evidence maybe diluted.

Mr Bell added that in terms of noise nuisance, details of complainants were not divulged without their consent. Mr Bell said that he felt the

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representations were genuine and he assured the Committee they were from people resident in the vicinity of the London Trader P.H.

Mr Aylott reiterated his earlier comments and said that he did consider the evidence to be new, in particular the CCTV footage of the London Trader P.H. He said the witness statements had been with Environmental Health for some time and were received on Friday 21 October. In his conclusion he said that if the adjournment was not granted he would not get a fair hearing.

The Committee adjourned to consider Mr Aylott's request to adjourn the meeting to a later date.

The Licensing Sub-Committee agreed unanimously to proceed and not to adjourn the meeting. The Chair advised that they considered the documentation was amplification of the report, and they felt that Mr Foot had known of the application for a review of his premises for a considerable time.

Mr Aylott said that he was instructed to withdraw from the hearing and take no further part. Mr Aylott and Mr Foot sat in the gallery for the remainder of the meeting.

Mr Brown, Licensing Manager, reiterated his report on the review of The London Trader Public House, 4-7 East Beach Street, Hastings.

Mr Bell, the Principal Environmental Health Officer, made his submission and with the agreement of the Chair, he circulated maps showing the location of the London Trader and a table giving numbers of residential premises in the area, for members to consider. He stated that approximately 24 residential premises within 50m of the site were likely to be effected by noise; and 39 residential premises at 75m, and 105 residential premises at 100m radius. In addition to the residential properties he said a guest house was located immediately next door to the premises, another within 75 metres and a third within 100 metres. He also circulated a list of complaints received within the last 12 months concerning noise disturbance from the London Trader. He said that this was a considerable number of complaints for a single premises and pointed out that 9 of the 16 complaints listed had been received since 15 April 2011 the date of a letter sent to Mr Foot. He went on to list the dates of the complaints and his letters sent to Mr Foot.

Mr Stewart Bryant, Senior Technical Officer, Environmental Health, was present he spoke of his visit to the London Trader P.H on 22 April 2011 which took place as a result of ongoing investigations and a call to the out of hours service. During his visit he noted the windows of the premise were open and disco music was audible at various locations outside the premises in breach of the licence. When he left the area at 1am, he said the tables and chairs were still in use beyond the conditions of use in breach of the licence.

Mr Bell circulated a transcription from the diary sheets submitted by 2 residents regarding noise and disturbance from the London Trader P.H. with entries for 48 days, from 2 April 2011 to 2 October 2011 which he said

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showed that problems were persistent, frequent and ongoing from 2 April 2011 to 2 October 2011. He pointed out that comments ranged from bearable to dire, and showed that for 40 days of the 48 dates mentioned the situation was worse than bearable for at least part of the time. He referred to a number of the entries from the diary sheets.

Mr Bell detailed his visit to the area of the London Trader P.H. on 29 / 30 July 2011 when he said music was clearly audible from a number of locations outside of the premises and tables and chairs were still in use beyond 23:00hrs in breach of the premises licence.

With the agreement of the Chair, CCTV footage was played before the Committee. Mr Bell drew attention to the number of people seated at the outside table, the fact that barriers were positioned out into the pavement and a lot of people were standing both inside and outside the barriers and that people could be seen dancing around to music and a member of staff could be seen collecting empty glasses. Mr Trevor Scrase referred to the evidence shown which identified approximately 50 people outside the premises and some seated at tables and chairs in breach of the licence condition on the night of 5/6 August 2011. People were standing outside the barriers and the entrance door to the London Trader P.H. was open. He went on to talk about the noise from a disco in the premises being clearly audible at various locations around the premises in breach of the licence.

Mr Bell said that based on the evidence supplied, Mr Foot had flagrant disregard for the conditions attached to the premises licence and the impact on the surrounding residents and businesses from noise arising from his business and was doing nothing whatsoever to promote the Licensing Objective – Prevention of Public Nuisance. He recommended the Committee revoke the licence or scale back the times and permitted activities. He proposed a number of conditions which would bring the hours of operation back in line with standard trading hours. He added that Mr Foot had no excuse not to comply with the conditions as he was present at two Committee meetings held on 25/10/2005 and 15/10/2009, where on both occasions concern had been expressed regarding noise and the extended hours of operation.

Councillor Bird sought clarification on the ownership of the tables and chairs outside the London Trader P.H. Mr Bell confirmed the tables and chairs located on the public highway belonged to the London Trader P.H, and were subject to an East Sussex County Council permit.

PC John Ash, Enforcement Officer for Sussex Police, was present and spoke regarding the Prevention of Crime and Disorder and Prevention of Public Nuisance, he referred to his witness statement and observations made when visiting the London Trader P.H. on 24 April 2011 and 9 May 2011. He spoke of his involvement in a meeting with Mr Foot to formulise and agree an action plan and had reminded Mr Foot during this time of his obligations.

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Mr Tony Masters, Licensing Officer for Sussex Police, was present and referred to his witness statement and his involvement in the action plan. He also referred to his observations when visiting the London Trader P.H. on 31 July 2011.

Detective Inspector Johnson, referred to a log of incidents observed at the London Trader P.H, which highlighted the lack of control of the patrons. She said there was a great deal of crime and disorder and nuisance and as such they were seeking to modify conditions and reduce the operating hours, not to revoke the licence

Mr Moser, read his letter of representation, he also referred to comments made by clientele who stayed at Foyles Bed and Breakfast. .

Mr Edwards, Chairman of Old Town Hastings Residents Association, read his letter of representation. He added that he supported the review of the London Trader P.H, and believed Mr Foot was openly flouting the licensing laws.

The Chair advised that they would like to see improvement at the premises, and in this case the Committee decided to exclude licensable activities from the scope of the licence, namely the removal of live music and dancing.

**RESOLVED (unanimously) that the licence is subject to the following conditions:**

- 1. Recorded music to be background only and not audible outside the building;**
- 2. Restrict the hours of recorded music, indoor sporting events and supply of alcohol to 09.00 to 23.00hrs Monday to Saturday and 09.00 to 22.00hrs Sunday the only exception being for New Years Eve when such activities may continue until 01.00hrs on New Years Day;**
- 3. The opening hours of the premises to be 09.00 to 23.30hrs Monday to Saturday and 09.00 to 22.30hrs Sunday the only exception being for New Years Eve when the premises may remain open until 01.30hrs on New Years Day;**
- 4. Noise from music played in the premises shall not be audible outside the confines of the building;**
- 5. Noise from all mechanical or electrical equipment used by the premises or from customers in or in the immediate vicinity of the premises shall not be audible as perceived by an authorised officer of Hastings Borough Council, at the façade of any building containing residential or guest house accommodation;**

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- 6. There shall be no use of external tables or seating after 23.00hrs;**
- 7. The area (hatched black on attached plan) where external tables are located under a Licence from the Highways Authority shall have removable barriers around the perimeter to clearly denote the area and customers shall not be permitted to congregate outside of that area. These barriers shall be removed at close of business;**
- 8. Clearly legible and prominent notices shall be displayed at all exit doors requesting customers “Please consider our neighbours be quiet when outside and leave quickly and quietly when going home”;**
- 9. The seating area (hatched black on attached plan) is to be controlled by a SIA registered supervisor from 12 noon to close of business on Saturday, Sunday and Bank Holidays and on Fridays from 21.00hrs to close of business.**

**Reasons for the decision:**

**The Committee has listened very carefully to all the evidence given this afternoon. They have made their decision to promote the Licensing Objectives, particularly Public Nuisance and Crime and Disorder. The Committee have had regard to the guidance published by the Secretary of State and also its own policy generally and specifically policy numbers 4 and 13.**

(The Chair declared the meeting closed at 5.30pm)