

## LICENSING SUB COMMITTEE

15 JUNE 2022

Present: Councillors Patmore (Chair), Roberts, Sinden and Jobson (in reserve).

### **19. APPOINTMENT OF CHAIR FOR THIS MEETING**

In accordance with the terms of reference of the Licensing Committee, the council solicitor invited nominations for the appointment of Chair for the duration of the meeting.

Councillor Roberts proposed that Councillor Patmore take the Chair, seconded by Councillor Sinden.

### **20. APOLOGIES FOR ABSENCE**

None received.

### **21. MINUTES OF PREVIOUS MEETING**

Approved.

### **22. DECLARATIONS OF INTEREST**

None received.

### **23. VARIATION OF A PREMISES LICENCE WITH REPRESENTATIONS, THE FORBIDDEN FRUIT, 22 GRAND PARADE, ST LEONARDS ON SEA**

The Sub-Committee took a vote on whether to continue with the hearing in the absence of any of the public objectors.

#### **RESOLVED (unanimously):**

**That the Licensing Sub-Committee hearing continue in the absence of any of the public objectors.**

The applicant confirmed that he had received the report.

The Licensing Lead Officer, Mr Bryant, introduced his report. The premises formally operated under a licence granted in 2005 and has since been managed by several different operators. The premises holds a licence under the Licensing Act 2003 and is not located within the Council Special Saturation Policy (Cumulative Impact Zones).

The application requests an extension of opening hours and an extension of the licensable area into the basement, as set out in the report.

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As a result of the consultation period a representation was received from a responsible authority, Mr John Ballam, Environmental Protection Officer, Hastings Borough Council. The representation relates to the licensing objectives Prevention of Crime and Disorder and Prevention of Public Nuisance. Mr Ballam's representation suggests amendments to the main noise prevention condition, and the addition of a further noise prevention condition.

In addition, a number of public objections were also received and attached as appendices to the report. Sussex Police licensing team made no formal representation. Hastings Borough Council planning department made no objection, although advise that the applicant may want to pursue a formal certificate of lawful use for the basement area.

Mr Ballam was present and made a submission. Mr Ballam said his suggested amendments and additions are standard conditions that the environmental health department are requesting on all new licences and variations to licences.

Mr Colfield said he had been in discussion with environmental health and asked for clarification on the precise meaning of 'nearest noise receptor'. Mr Ballam said that would be the nearest residential premises.

Mr Colfield informed the Sub-Committee that he was planning to use the basement so that music will be more contained. The volume in the upstairs area will be lower and only background music. When taking over the premises a letter was sent to all neighbours providing contact details and introducing the management. In nine months of operating the premises Mr Colfield said he had never been contacted by any neighbours in Adelaide House, and there have been no issues with the police.

Mr Colfield noted the public objections refer to Bar Blue, which was the name of the premises under the previous owners and nothing to do with current management. Polite notices are displayed around the bar asking patrons to be quiet and respectful when entering and leaving the building. There have been no noise complaints until this current application. The most memorable event noted by the objectors was the opening night, nine months ago. Police were called on that occasion but there were no issues. Lessons have been learnt since then and Mr Colfield said he remains outside asking customers to be respectful of neighbours. There have been mistaken noise complaints regarding The Forbidden Fruit, which the police have subsequently traced to other local licensed premises.

The premises is an LGBT venue and works closely with local charities to provide a safe space for the LGBT community. The bar has a diverse customer base which brings together the local LGBT and heterosexual communities and customers have always been complimentary of the venue.

Councillors asked questions of the applicant.

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Mr Colfield explained that although the application requests earlier opening hours this is to give the venue the option of doing so when local events are on, without having to apply for a Temporary Event Notice. There are no plans to open earlier.

In response to a question Mr Colfield said he would accept the conditions proposed by the Environmental Protection Officer.

The Licensing Lead Officer informed the Sub-Committee that the application also requests opening hours of 10:00 to 03:00 hours for Christmas Eve and New Year's Eve.

The Licensing Lead Officer, Environmental Protection Officer and applicant summarised their submissions.

In summary Mr Colfield said that the objections raised concern about the premises being open to 2am. Although these hours are already on the licence there are no plans to extend the opening hours until 2am.

The Sub-Committee retired to consider the application.

**RESOLVED (unanimously):**

### **GRANT IN PART WITH CONDITIONS**

We have listened carefully to all the submissions and we are bound to be directed by the promotion of the Licensing Objectives and Material Consideration of:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

On balance, the Sub-Committee accepts the evidence provided in support of the application and has decided to grant part of the application to vary the licence.

The incorporation into the licenced premises of the basement as per the plan provided as part of the application is granted.

In recognising the concerns raised about the specific issues under the Licensing Objectives, the application is granted in part subject to the following conditions:

The opening hours of the premises remain Sunday-Wednesday 10:00-01:30 and Thursday-Saturday 10:00-02:30.

Films remain: Sunday-Wednesday 10:00-01:00, Thursday-Saturday 10:00-02:00

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Performance of dance remains: Sunday-Wednesday 10:00-01:00, Thursday-Saturday 10:00-02:00

Plays: Sunday-Wednesday 10:00-01:00, Thursday-Saturday 10:00-02:00.

Live music remains: Sunday-Wednesday 10:00-01:00, Thursday-Saturday 10:00-02:00

Recorded music/DJ performance remains: Sunday-Wednesday 10:00-01:00, Thursday-Saturday 10:00-02:00

Late night refreshment remains: Sunday-Wednesday 23:00-00:30, Thursday-Saturday 23:00-01:30

Supply of alcohol on and off premises remains: Sunday-Wednesday 10:00-01:00, Thursday-Saturday 10:00-02:00

Before any live music or events take place on the premises, the DPS will ensure that all windows and doors are kept closed apart from allowing ingress or egress, in order to minimise potential noise outbreaks.

The DPS or a responsible member of staff shall monitor the impact of possible noise outbreak on neighbouring properties along Grand Parade and take action to reduce noise levels if they are found to be clearly heard at the nearest noise sensitive receptor. A log of the monitoring information should be kept available for the Local Authority to view on request.

The existing condition "Noise and music arising from the premises shall not be audible in any residential premises after 23:00hrs. For the avoidance of doubt noise shall include that arising from all mechanical or electrical equipment used by the premises and that noise arising from customers in the premises" is deleted and replaced with the following condition "no noise generated on the premises from music, patrons or any mechanical equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises, that may give rise to a nuisance at any noise sensitive premises from opening until closing time".

The existing condition "Will review the need for SIA trained and authorised door staff for pre-planned events" is deleted and replaced with the following condition: "One SIA trained and authorised door supervisor to be employed from 22:00hrs until 30 minutes after closing time on any pre-planned event".

The existing condition "Ensure staff promote a challenge 21 policy and accept only photographic evidence as proof of age" is deleted and replaced with "A challenge 25 policy shall be in operation at the premises and staff will be suitably trained to implement this policy".

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The existing condition “Ensure CCTV system is properly maintained and images recorded stored for 28 days and made available to police and the licensing authority at any reasonable time” is deleted and replaced with “Ensure internal and external CCTV system is properly maintained and images recorded and stored for 28 days and made available to police and the licensing authority at any reasonable time” .

The reasons for granting this application are:

1. The Sub-Committee noted the licence currently allowed for longer periods of licensable activity than provided for in the matrix as set out in the Council’s policy. The Sub-Committee did not believe they had been provided with sufficient evidence to support further extension of the hours contrary to the policy.
2. The Sub-Committee did however note that the application appears responsible and appear to be operating a well-run establishment. The Sub-Committee hoped the applicant keep up the good standards of running their establishment.
3. The Sub-Committee looked at this case on its own merits and believed that the Environmental Health officer’s suggested conditions were proportionate in this case given the objections raised by local residents.

(The Chair declared the meeting closed at 12.55pm)