

**Bob Brown**

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**From:** Catherine.Wolfe@sussex.pnn.police.uk  
**Sent:** 15 December 2017 11:48  
**To:** Trevor Scrase; Bob Brown; Licensing  
**Cc:** Kirstie.j.Rolfe@sussex.pnn.police.uk; Richard.Wilkes@sussex.pnn.police.uk;  
Diane.Lewis@sussex.pnn.police.uk  
**Subject:** The Royal George, 32 Station Road

Dear Mr. Scrase,

Regarding the review of the above premises brought by Mr Stewart Bryant (Senior EHO), Sussex Police are unable to support the application. There have been four incidents related to the premises since 08/09/2017.

1. A report on 08/09/2017 from an intoxicated male reporting open drug use at the premises. He then stated that he and his partner were barred.
2. A report on 27/10/2017 from a male that he had been assaulted inside the premises by an unknown male who had punched him in the face before leaving.
3. A report from the premises manager on 11/11/2017 that a male who had been inside the premises was in the street causing criminal damage to a taxi containing the male's girlfriend. The male was arrested and charged with criminal damage and possession of a class A drug.
4. A report from a staff member on 13/11/2017 that there was a drunken male inside the premises who was refusing to leave. The male left prior to police arrival.

I visited the premises at 12:55hrs on 14/12/2017 to conduct a licensing check. The DPS Mr Palmer was behind the bar. As he could not produce his personal licence he was given words of advice. All the licence conditions were being complied with the exception of 10). Mr Palmer was unable to produce the staff training manual as he said that all staff were trained at one of his other premises, The Hollington Oak, and therefore the manual was kept there. He did however state that he would ensure the relevant manual was kept at The Royal George from 15/12/2017.

He further stated that he no had live music/DJs performing at the premises due to action taken by the council (the review) and had installed Sky Sports instead which worked better in the premises.

Kind regards,

Cathie Wolfe ABII

Eastbourne, Lewes, Wealden, Hastings & Rother District Licensing Officer

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# MEMORANDUM



Date: 22<sup>nd</sup> December 2017  
From: Trevor Scrase, Senior Licensing Officer  
To: Bob Brown, Licensing Manager  
My Ref:  
Your Ref: The Royal George, 32 Station Road, Hastings.

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## **Review application – The Royal George, 32 Station Road, Hastings.**

### **Review application.**

On the 5<sup>th</sup> December 2017, a review application was received by Hastings Borough Council as the licensing authority, from Stewart Bryant, Senior Environmental Health Lead Officer, Hastings Borough Council.. The review application is submitted under the licensing objective, Prevention of public nuisance, in respect of ongoing non-compliance of the conditions of the operating schedule of the premises licence and complaints regarding excessive noise of both live and recorded music and customer noise, from the premises.

The full details of which have already been provided to the licensing sub-committee in both Mr Brown's and Mr Stewart Bryant's reports.

As senior licensing officer, my primary responsibility is in respect of the Licensing Act 2003, dealing with applications and enforcement when required. In order to assist the licensing sub-committee, I will outline the history of this particular premises, which is currently trading under the name of The Royal George.

### **History.**

The premises at 32 Station Road has been a licensed public house for some considerable time. At the transition from the justices licensing regime to local licensing authorities under the Licensing Act 2003, in 2005, the premises was called The Priory Pub, under Admiral Taverns. It was on the 24<sup>th</sup> November 2005 that the 'new' Licensing Act 2003 took over as the sole authorisation for all alcohol sales combined with certain regulated entertainments. It was at this time that the conversion of the former justices licence allowed a simultaneous variation of the 'new' premises licence allowing the addition of some further regulated entertainments like recorded music, live music, plays, films, indoor sporting events, performance of dance, provision of facilities for dancing, late night refreshment were added. Some of these activities were authorised up to varying terminal times from 23.30 hours, early to mid-week, up to 01.30 hours, on a Friday and Saturday. It was at this stage that some control measures were added in the operating schedule, to control the noise of events and customers in the premises.

The Priory Pub, under the holder-ship of Admiral Taverns, closed in May 2007 and was transferred to Priory (Sussex) Ltd in June 2009. It then underwent considerable internal alterations before further transfer to a new licence holder as Frank's Front Room Limited in March 2012. This was followed by a minor variation in respect of the change of internal layout and removal, replacement or amendment, of the previous operating schedule conditions in line with the 'business plan' as Franks Front Room. Additional noise control conditions were requested by the environmental health officer, in post at that time.

The location of the premises, on the corner of Station Road and Devonshire Road, has seen significant changes in the area over the years. Since this premises licence was originally granted in November 2005 to the current date. The most significant is the re-development of the approach to Hastings Railway Station with Sussex Coast College, the adjacent Medical Centre and Sainsbury's Local.



From its original construction, date unknown, as a corner located, off town centre public house, to operating to later hours in November 2005, with more live and recorded music, to close in 2007, the initial impact of the transition into the new licensing regime was very brief. It reopened in 2012 under a different licensed operator as a more food related premises. There is a further documented problematic period from March 2017 up to June 2017, then to the current business, with a return to a corner pub with live and recorded music. It can be seen that the type of operation in this particular corner public house, has changed considerably, as has the area itself. The operating conditions and controls have not changed significantly to reflect the changes of operators and their business plans, which leads to the consideration that the current premises is not wholly suitable for some of the existing authorised regulated entertainments, or times to which they are currently authorised.

### **Time line from 27<sup>th</sup> July 2017.**

There is considerable history to this licensed premises but the current premises licence holder and designated premises supervisor has only been involved with this premises since late July 2017.

Wk201704399 – 27<sup>th</sup> July 2017 - Transfer to Priory (Sussex) Ltd.

Wk201704400 – 27<sup>th</sup> July 2017 – Transfer to Andrew Palmer. It should be noted that Andrew Palmer on transferring the premises licence, took over the licence with all the previous conditions which have been in place unchanged, since the grant of a previous minor variation on the 3<sup>rd</sup> April 2012. At that date, it was operating as Franks Front Room, under a different premises licence holder and DPS.

Wk201704403 – 27<sup>th</sup> July 2017 – Change of DPS by Andrew Palmer as DPS.

5<sup>th</sup> August 2017 – Noise complaint received regarding breach of licence conditions and excessive music noise from the Royal George.

9<sup>th</sup> August 2017 – Visit to see Andrew Palmer by Bob Brown (Licensing Manager), John Ballam (EH Noise Pollution) and Trevor Scrase (Senior Licensing Officer) regarding recent noise complaint received.

Wk201706410 – 15<sup>th</sup> September 2017 – Minor variation submitted. To amend conditions of the operating schedule to remove – ‘to ensure two bar staff are on duty at any one’. Replace with amended condition requested by police to –

1. From 20.00 hours until close on Friday and Saturday nights there will be 2 members of bar staff on duty, at least one of whom will be a personal licence holder.
2. At times where there is only one member of bar staff on duty, that member of staff will be a personal licence holder.

In the minor variation the authorised regulated entertainments were amended to reflect the exemption under the Live Music Act 2012 and the deregulation of some regulated entertainments under the Licensing Act 2003.

2<sup>nd</sup> October 2017 – Minor variation granted. In the consultation period, I did receive an enquiry from a complainant regarding the changes under application. I explained that these were in respect of the conditions regarding number of staff on duty and simultaneous amendments to the licence regarding the exemptions and deregulation under the Live Music Act 2012 and Licensing Act 2003. There were no changes to the authorised regulated entertainment, times or conditions controlling those in the operating schedule. The enquirer was invited to view the application, at our offices but declined, following my explanation.

### **Licensing involvement.**

In the days preceding the transfer on the 27<sup>th</sup> July 2017, enquiries were received from Mr Christopher Clayton, Priory (Sussex) Ltd the property owners and premises licence holders of 32 Station Road, Hastings.

In the subsequent meeting, at our offices, with Christopher Clayton and Andrew Palmer, I took the opportunity to explain that The Royal George had been under considerable scrutiny, by police licensing and ourselves, whilst under the previous premises licence holders, since March 2017. I was assured that there was no longer any connection between Andrew Palmer and the previous operator(s). I can confirm that this is correct.

I further explained that he should expect to be under continued scrutiny due to the previous history.

Following the transfer, internal redecoration took place before the premises re opened trading.

Police Sergeant Denham VOKINS contacted this authority regarding findings following a licensing compliance visit. These were subsequently discussed with Andrew Palmer and resolved in the minor variation granted on the 2<sup>nd</sup> October 2017.

### **The Live Music Act 2012 exemptions and Licensing Act 2003 deregulation.**

Under the minor variation, granted on 2<sup>nd</sup> October 2017, which was primarily to remove a condition regarding two staff on duty at all times, the opportunity was taken to amend the premises licence to reflect the amendments of the Live Music Act 2012 exemption for live music and the deregulation of recorded music following recent amendments to the Licensing Act 2003.

The Live Music Act 2012, dis-applies live music conditions if the following criteria are satisfied:-

- There is a premises licence in place permitting 'on sales' of alcohol;
- The premises are open for the sale or supply of alcohol for consumption on the premises;
- Live music is taking place between 08.00 and 23.00 hours;
- If the live music is amplified, the audience consists of no more than 200 people.
- Live amplified music also ceases to be classed as regulated entertainment if the above criteria are satisfied;
- The Act also creates a general exemption that live unamplified music provided anywhere shall not be regarded as the provision of regulated entertainment if it takes place between 08.00 and 23.00 hours, regardless of the number of people in the audience.

The Act goes on to explain, there are a number of mechanisms for the protection of residents and these are:-

1. Upon a review of the premises licence the Licensing Authority can determine that conditions on the premises licence relating to live music will apply even between 08.00 and 23.00 hours;
2. If the licence doesn't presently authorise live music the Licensing Authority can add conditions to the Premises Licence as though the live music were regulated entertainment authorised by that premises licence, again to apply between 08.00 and 23.00 hours.

3. The Licensing Authority can determine that live music at the premises is a licensable activity and live music can no longer be provided without the permission of the Premises Licence or a Temporary Event Notice;
4. Other noise legislation, for example in the Environmental Protection Act 1990, will continue to apply. The Live Music Act does not allow licensed premises to cause a noise nuisance.

Under the Revised Guidance issued under section 182 of the Licensing Act 2003 – April 2017, page 127, 16.26 further explains when live music is licensable.

16.28 on page 127 states, A public performance of live unamplified music that takes place between 08.00 and 23.00 on the same day no longer requires a licence under the 2003 Act in any location. **An exception to this is where a specific condition related to live music is included following a review of the premises licence, in respect of relevant licensed premises.**

The Royal George is deemed a relevant licensed premises. 16.32 page 128.

#### **Incidental live or recorded music.**

As a result of de-regulatory changes to the Licensing Act 2003, live and recorded music played as 'incidental' to another activity, is no longer regulated entertainment. This is 'background' or 'mood music'. As such it does not need to be authorised on a premises licence.

However whether it is incidental or not, to another activity will depend on the facts of each case. 16.59 page 133.

The playing of recorded music for the purpose of disco or karaoke would require authorisation on a premises licence.

In any disputed case as to incidental music, it will be for the licensing authority initially and ultimately, for the courts to consider whether music is 'incidental' in the individual circumstances of any case.

In respect of the periods from August to November 2017, the live and recorded music has been advertised as a main attraction, therefore this has not been incidental to another activity. 16.61 page 133.

#### **For consideration by the Licensing sub-committee.**

Live music and recorded music can be removed from the premises licence from 23.00 hours to the current terminal hour(s).

Live music, under a review, can also be removed from the premises licence, removing the Live Music Act exemption hours of 08.00 to 23.00 hours daily, if that is deemed appropriate by the licensing sub-committee.

If live music and recorded music is allowed to remain on the premises licence between the hours of 08.00 to 23.00 hours daily, additional conditions can be applied to the premises licence to control these regulated entertainments under the Prevention of public nuisance licensing objective.

#### **Current situation.**

Since the implementation of the review on the grounds of noise nuisance, Andrew Palmer, the licence holder, has started to make more food available for customers and also installed Sky Sports television.

**Conclusion.**

- The purpose of my report is to assist the licensing sub-committee in the history and issues of this premise. This is not a representation as such but explanation of the Licensing Act 2003 as it now stands at the date of this review hearing.
- This particular licensed public house has been brought to the attention of the licensing sub-committee on a number of occasions this year.
- Andrew Palmer has only been 'in charge' since the 27<sup>th</sup> July.
- The noise complaints, witnessed by an authorised officer have led to this review.
- The licensing sub-committee can implement more 'control measures' to prevent further noise nuisance, as explained in my report.

Trevor Scrase  
22<sup>nd</sup> December 2017.

