

# Public Document Pack

## LICENSING SUB COMMITTEE

22 JANUARY 2018

Present: Councillors Dowling, Street (Chair) and Webb with Councillor Edwards in reserve. Also in attendance: Bob Brown, Licensing Manager; Stewart Bryant, Senior Environmental Health Officer and John Ballam, Technical Officer, Environmental Health

### 1. APPOINTMENT OF CHAIR FOR THIS MEETING

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 Street should take the Chair. This was seconded by Councillor Webb.

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

### 2. APOLOGIES FOR ABSENCE

None.

### 3. DECLARATIONS OF INTEREST

None.

### 4. NOTIFICATION OF ANY ADDITIONAL URGENT ITEMS

None.

### 5. REVIEW OF EXISTING PREMISE LICENCE: THE ROYAL GEORGE PUBLIC HOUSE, 31-32 STATION ROAD, HASTINGS

Members of the Committee, Officers and the applicant introduced themselves. Councillor Street set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice).

The Licensing Manager, Mr Brown, presented the report of the Assistant Director of Environment and Place in respect of an application made on 5 December 2017 for the review of an existing premises licence, under Section 51 of the Licensing Act 2003 by Mr Bryant, Senior Environmental Health Officer, Hastings Borough Council for The Royal George PH, 31-32 Station Road, Hastings.

The premises operates under the following trading hours:

- Sale of Alcohol. Monday to Thursday 10.00 – 00.00hrs, Friday – Saturday 10.00 – 01.00hrs and Sunday 11.00 – 23.30hrs.

## LICENSING SUB COMMITTEE

22 JANUARY 2018

- Recorded Music. Monday to Thursday 07.00 – 00.30hrs, Friday – Saturday 07.00 – 01.30hrs and Sunday 07.00 – 23.30hrs.
- Live Music / Dance / Plays / Films etc. Monday – Thursday 10.00 – 00.00hrs, Friday – Saturday 10.00 – 01.00hrs, Sunday 11.00 – 23.00hrs.
- Late Night Refreshment. Monday - Thursday 23.00 - 00.30hrs, Friday - Saturday 23.00 – 0.1.30hrs, Sunday 23.00 - 23.30hrs.

Mr Bryant, Senior Environmental Health Officer, who brought the review, made his submission on the grounds of the 'Prevention of public nuisance'. His letter of objection was appended to the agenda under Appendix A of the report. He brought the application for the review of the Royal George Public House due to noise complaints; the lack of engagement from the Licence holder; the unsuitability of the building to hold live music and disco type events and the serving of a noise abatement notice. Mr Bryant sought the removal/amendment of some of the licensable activities and the addition of new licensable conditions.

The premises, he said, is a three-storey single glazed back street pub on the corner of Station Road and Devonshire Road. The front entrance of the premises opens onto Station Road. Directly adjacent is Haig House, Devonshire Road. The two buildings are separated by a small walkway, approximately 5m from the rear of the Royal George PH. The area is predominantly residential, the nearest other licensed premises is Flairz, in Havelock Road. The main source of complaints regarding disturbance from noise is from the residents of Haig House.

Previously known as Frank's Front Room between 2012-2014, the premises had specific conditions to control and limit music, so that it was barely audible on the opposite side of Station Road up until 23:00hrs and inaudible by 23:00hrs each day.

The premises re-opened in July 2017 as The Royal George Public House. Mr Bryant said the first complaint was received on 5 August 2017 regarding loud music at the premises. A meeting was held between Mr Palmer, the Premises Licence Holder and officers from the Council's Licensing and Environmental Health departments, to talk through issues. Mr Palmer was advised to keep the front doors leading onto Station Road closed when bands were going to perform; restore signage; monitor noise around the premises and log the details. A further complaint was made regarding loud music on 12 August 2017; the case was added to the Council's out of hours referral list. Following further complaints on 10 November 2017, Mr Bryant said he visited the premises and was able to hear the music in Devonshire Road. This was a direct breach of the licensing conditions. Appended to the report were the letters of complaint; noise diaries and witness statements.

Due to the lack of action from the Licence Holder and DPS to fully engage with the Council to resolve the complaints of public nuisance, a Noise Abatement Notice was served on Mr Palmer on 14 November 2017. Mr Palmer agreed to stop playing live music and play Sky Sports and serve food instead for the time being. Mr Bryant said he wrote a report to Mr Brown stating the building was not suitable for live music and proposed a number of conditions. He said the conditions are to protect residents from loud music whilst being fair to the business.

## LICENSING SUB COMMITTEE

22 JANUARY 2018

Mr Bryant made the following recommendations to modify the licence:

- Removal from the Licence of live and recorded music after the hour of 23:00hrs Monday to Sunday.
- The Licence should be conditioned so as to remove the exemptions under the Live Music Act 2012 to allow recorded and Live music (including unamplified music) at the premises between 08:00hrs and 23:00hrs.
- A Reduction in night time hours of operation as follows:
  - Monday to Thursday from 00.30hrs to 23:00hrs
  - Friday and Saturday from 00.30hrs to 23:30hrs
  - Sunday from 23.30hrs to 23:00hrs

Noise, music and patrons shall not be audible in any residential premises at any time.

With the following conditions being attached to the revised licence:

That the first sentence of Annex 2-condition 15 is amended to the following to read, noise and music arising from the premises shall not be audible in any residential premises (Document 9 – Annex 3).

- Supervision shall be exercised on patrons at all times outside the premises in Station Road / Devonshire Road to ensure they refrain from shouting, singing or other rowdy behaviour at any time and anyone failing to comply with a request to be quiet or to comply with the restriction shall be refused entry or re-entry to the premises or further service of drinks. From Monday to Thursday a responsible member of staff shall be in attendance in the vicinity of the exits and to assist with the dispersal 30 minutes after the licensable activity has ceased.
- 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. The volume level to be set, following agreement by an authorised officer of Hastings Borough Council, Environmental Health.
- Persons using the front of the building, at Station Road and Devonshire Road shall not be permitted to take drink out with them.
- Where the premises operate with background music all doors and windows at the front and rear of the premises are to remain closed, save for access and egress.
- The premises will make available to local residents a contact number for the designated premises supervisor or representative so that any complaints can be dealt with promptly.

Reason: In order to uphold the licensing objectives, in particular the prevention of public nuisance.

Mr Bryant explained that there had been more than one complainant. Mr Grimshaw, a resident from Haig House, was in attendance to speak to the committee about the noise and anti-social behaviour issues that he encountered.

In his submission, Mr Grimshaw, said that he lived in Haig House at the top of the three-storey building which had been regularly affected by loud music between July and August 2017. He said loud live music was regularly played at weekends. They held different types of music events: rock, soul and dance from 5pm till midnight. He

## LICENSING SUB COMMITTEE

22 JANUARY 2018

referred to an incident on 5 August 2017 where the music was so loud he could not hear his TV. He said he could also hear patrons of The Royal George shouting. In accordance with the Licensing conditions, music should be inaudible to each side of Station Road. He said he stood on Station Road, opposite the Royal George to double check this was the case. Over the next couple of months, he said, the music became intolerable. In November 2017, he recalled a concert which started at 5pm till late, the bass beat was reverberating in his flat. He called the out of hours number to report the incident and went into the pub to speak to the DPS. He said it was like a night club inside the pub, the DJ was playing music at a level that would suit a soundproofed underground nightclub. He went to the bar and asked to speak to the DPS, but the bar person could not hear. After several attempts, he was informed the DJ was the DPS, and he approached him and explained the situation. He told the DPS that he was in breach of the Licence and asked to see a copy of it. He was advised that they did not have a copy of the licence on the premises. Mr Grimshaw said he was abused and threatened by the pub patrons. He said he returned to his flat and was visited by Mr Morton the DJ. That evening, Mr Bryant visited the premises, but the volume had been turned down so it was not as loud as initially observed. Mr Grimshaw said he was told by Council Officers that Mr Palmer had breached the licence and he had been served a Noise Abatement Notice. Mr Grimshaw said the premises is unsuitable for music; the doors from the pub open straight onto the street and it has single glazed windows. He said he found the situation very stressful, it had affected his heart condition; sleep and concentration.

Mr Palmer said he had taken over the premises on 28 July and started playing music on 5 August. He asked Mr Grimshaw why he had a noise complaint form before he started playing music on 5<sup>th</sup> August. Mr Grimshaw said the diary form was not in his possession at that time. When he complained to the Council about the noise, they sent him a diary form.

Mr Palmer asked Mr Grimshaw what relevance his prices had to do with the noise complaint. Mr Grimshaw said it was the nature of the promotions eg 'Come to dirty Thursday at The Royal George' and 'Multiple Shots – cheap prices'. Mr Grimshaw said this suggested a nightclub type premises.

Mr Palmer asked Mr Grimshaw if he knew the prices of his competitors. Mr Grimshaw said The Royal George was the type of premises that promoted drunkenness.

Mr Palmer questioned whether the complaints had been received from one building. Mr Brown confirmed that the complaints had been received from multiple locations in the vicinity. The complainant's details had been redacted for public protection.

Mr Palmer said complaints had been received about noise outside of the building, along the passage way. He said he had intended to spend £2,000 for a smoking area, but had stopped the proposals when he learned where Mr Grimshaw lived, as it would have been positioned directly below his window.

Councillor Webb asked Mr Grimshaw if he thought the premises was suitable for music eg acoustic guitars. Mr Grimshaw said the structure of the building was not suitable; the windows were all single glazed and the front doors opened directly onto the street. It was difficult not to hear music, even if it wasn't a nuisance.

## LICENSING SUB COMMITTEE

22 JANUARY 2018

Mr Bryant said the premises was previously known as Franks Front Room, the previous operator typically played acapella and string type music. Conditions were put on the Licence to give residents some protection from the noise. He said the fabric of the building cannot support heavy bass music.

Mr Palmer said the first complaint was on the opening night. The band was unplugged and singing was at a low level, consequently he said he received a £20,000 fine letter. He said he did not know who the complainant was. Since the DJ incident he said he stopped music immediately at a cost to himself. Furthermore, they blocked the front door so it will not open and close during events, patrons now enter the building via the rear door. He said they were going to provide a smoking room outside, but stopped when they found out it would be sited too close to where Mr Grimshaw lives. He felt that 5m was too close a gap to live next to a pub. Mr Palmer said if music is stopped permanently, it will be bad for business.

Mr Morton, the DJ, said that on the night of the 10 November 2017, Mr Grimshaw came into the pub and he went to his house to apologise. He said that he may have made a mistake regarding the volume being too high, the doors were open on the opposite side to his property. Noise travelled round the corner and up the alley way.

Mr Bryant said he asked for all of the live music to be stopped. The previous premises was conditioned. He said to Mr Palmer that it would have been good for him to have researched the premises. No previous complaints had been received.

Mr Brown asked Mr Palmer, the licence holder, how he checked the conditions on the licence which stated that music should be barely audible up to 23:00hrs. Mr Palmer said he crossed the road. He said he did not check on the night that Mr Grimshaw visited.

Mr Brown asked Mr Palmer what the four licensing objectives were, he was unable to quote them. Mr Palmer said he had stopped playing music and that he had someone install wooden boards to block access to the front door during live events. Mr Palmer said he competes with other premises in the area; other pubs have music just as loud. The complainant lives just 5m away.

Councillor Webb asked if patrons outside the premises were supervised and whether they were asked to be quiet. Mr Morton said they had someone stand outside directing them through a different door. There was no drinking after 11pm and no one is allowed to smoke at the side of the building.

Councillor Dowling asked if the people Mr Palmer employed were licensed security staff. Mr Palmer replied no. Councillor Dowling asked if they used their own bar staff.

Mr Brown explained the difference between live/recorded music which is licensable and incidental music which is non-licensable. Live music, he said, is the main source of music and is over powering. Incidental music is back ground music that is ancillary to the premises. The volume should be at background level and not affect the premises. If live/recorded music is removed from the premises, then incidental music stays. Between 2012-2014, the premises had specific conditions to control and limit

## LICENSING SUB COMMITTEE

22 JANUARY 2018

music, so that it was barely audible on the opposite side of Station Road up until 23:00hrs and inaudible by 23:00hrs each day.

Mr Brown explained that there was a difference between amplified and non-amplified music. The Music Act 2012 states it can be de-regulated in a licensed venue, but once a noise complaint is received, the Licensing Committee have power to remove it. If you take the exemption away then it is removed. There is no condition to state either recorded or live music.

In his summary, Mr Bryant said noise had been generated from customers outside and inside the premises. Music, accentuated by a heavy bass beat, was escaping from single glazed doors and windows, it was not incidental music. This resulted in a number of complaints from local residents. The Licence holder was advised and a meeting arranged with Council officers. The Licence Holder and DPS did fully engage with officers. Complaints were still being received until a Noise Abatement Notice was served. The Conditions proposed are to control acoustic type performances.

Mr Palmer requested the committee did not stop him from playing music. He was not aware of any other pubs that did not play music.

**RESOLVED (unanimously) to MODIFY the conditions of the licence as follows:**

- **Removal from the Licence of live and recorded music after the hour of 23:00hrs Monday to Sunday.**
- **A Reduction in opening hours: Monday to Saturday from 00:30hrs to 24:00hrs.**
- **Supervision shall be exercised on patrons at all times outside the premises in Station Road / Devonshire Road to ensure they refrain from shouting, singing or other rowdy behaviour at any time and anyone failing to comply with a request to be quiet or to comply with the restriction shall be refused entry or re-entry to the premises or further service of drinks. From Monday to Thursday a responsible member of staff shall be in attendance in the vicinity of the exits and to assist with the dispersal 30 minutes after the licensable activity has ceased.**
- **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. The volume level to be set, following agreement by an authorised officer of Hastings Borough Council, Environmental Health.**
- **Where the premises operate with background music, all doors and windows at the front and rear of the premises are to remain closed, save for access and egress.**
- **The premises will make available to local residents a contact number for the designated premises supervisor or representative so that any complaints can be dealt with promptly.**

The reason for this decision was:

To uphold the Licensing Objectives, in particular the Prevention of Public Nuisance.

**LICENSING SUB COMMITTEE**

**22 JANUARY 2018**

**6. ADDITIONAL URGENT ITEMS (IF ANY)**

None.

(The Chair declared the meeting closed at 11:43 am)

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