

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **31st July 2009**

Present:

Cllr. Goddard (Chairman);
Cllrs. Mrs Blanford, Norris

Also Present:

Cllrs. Cowley, Mrs Heaton, Smith

Licensing Manager, Licensing Officer, Legal Advisor, Environmental Health Manager (Environmental Protection), Environmental Control Officer, Environmental Control Officer, Member Services & Scrutiny Support Officer.

164 Election of Chairman

Resolved:

That Councillor Goddard be elected as Chairman for this meeting of the Licensing Sub-Committee.

165 Minutes

Resolved:

That the Minutes of the Meeting of this Sub-Committee held on the 30th April 2009 be approved and confirmed as a correct record.

166 The Albion, Albion Place, Willesborough, Ashford, Kent, TN24 0BU – Review of Premises Licence.

The Chairman opened the meeting and welcomed all those present. Members confirmed that they had read the papers relating to the application. The Chairman explained the procedure to be followed at the meeting.

The Licensing Manager then gave a brief summary of his report. The application was for a review of the premises licence. The premises were situated just off New Town Road/Crowbridge Road in a residential area. The two storey pub was a large public house with a central bar and a function room all situated on one level and garden facilities.

There was evidence that the current licence holders applied for and were granted a Justice's Licence granted by the Magistrates' Court in 2007; however it was not known how long they had been involved with the premises. The Designated Premises Supervisor (DPS) was Mr Rob Dixon, although it appeared that Mr Myall was responsible for running the premises on a day to day basis and was in effect the day to day manager of the premises.

The current premises licence permitted the sale of alcohol on and off the premises Sunday to Thursday 10:00 to 00:00 and Friday and Saturday 10:00 to 01:00. The playing of recorded music Sunday to Thursday 10:00 to 00:30 and Friday and Saturday 10:00 to 01:30. Live music (indoors and outdoors) Friday, Saturday and Sunday 19:00 to 00:00.

An Officer from Ashford Borough Council's Environmental Control Team had submitted an application for a review of the premises licence held by Mr Tom Dixon and Mr Rob Dixon for the premises known as The Albion Public House, Albion Place, Willesborough, Ashford, Kent, TN24 0BU. The Licensing Authority accepted the application for a review as valid. Following the acceptance of the application for a review, the notice which was required to be displayed, was displayed, at the premises of The Albion Public House and at the offices of the Council in Tannery Lane. These notices were checked throughout the consultation period. The Licensing Authority had received no other representations from either a responsible authority or interested parties who lived or worked in the vicinity of the premises.

Complaints of loud music were initially received by the Licensing Authority in September 2006 by one individual living in the vicinity of the premises and as a result of these complaints the licence holders were spoken to by James Hann, Licensing Manager, and Dave Griffiths, Police Licensing Officer, on 26th September 2006. A further complaint was received on 1st October and a letter was sent to the licence holders reminding them of their responsibilities. No further complaints were received from anyone living in the vicinity of the premises until January 2007. Upon speaking to the complainant the Licensing Authority were informed that the nuisance caused by amplified music had improved since October 2006, although it did cause problems on occasions. Following this complaint a further letter was written to the licence holders reminding them of their responsibilities under the Licensing Act to promote the prevention of public nuisance objective.

In June 2008 a complaint was received regarding loud music emanating from the premises and the premises were visited by a Licensing Officer and an Officer from the Environmental Control Team. Further complaints were received regarding the noise generated from people in the garden of the premises for the weekend of 4th/5th and 11th/12th July 2008. Following a telephone conversation with Mr R Dixon on 14th July the licence holder agreed to restrict people from using the garden after 23:00. All the complaints received to this point were from a single source, namely a person living in the vicinity of the premises. Upon receipt of complaints in August 2008 the matter was referred to Ashford Borough Council's Environmental Control Team for investigation.

The Environmental Control Officer, Mr Tom Dixon and the licence holder's representative met on 10th July to discuss the review and possible steps that could be taken by the licence holder to promote the prevention of public nuisance objective. The Officer proposed a number of conditions that she believed would limit the noise nuisance and these were contained in Appendix E.

Section 52(4) states:

"The steps are –

- a) *To modify the conditions of the licence;*

- b) *To exclude the licensable activity from the scope of the licence;*
- c) *To remove the Designated Premises Supervisor;*
- d) *To suspend the licence for a period not exceeding three months;*
- e) *To revoke the licence;*

and for this purpose the conditions of the licence are modified if any of them is altered or omitted, or any new condition added.”

Mr Hopkins, the licence holder's representative, addressed the Sub-Committee. He advised Members that The Albion was a well run community pub in South Willesborough. It was surrounded by residential properties and was used by a number of local community groups. The Albion consisted of a bar and trade area to the front, a pool room to the rear and a separate function room. There was a large car park and garden, the smoking area was located to the rear of the pool room in the garden and The Albion was fitted with CCTV throughout.

Rob and Tom Dixon were both present and were the Leaseholders and Premises Licence Holders. Mr Grove, who was also present, was representing Enterprise Inns PLC the freeholders. Mr Rob Dixon was the current DPS but there was a manager Mr Myall who had been in charge of the day to day running of the pub. The brothers held the leases for three pubs in the Borough and were between them the DPS's of all three. The Dixons grew up in the area and so were familiar with the Borough. They had both been in the licensed trade for many years and were experienced licensees, both holding personal licenses. Tom Dixon was the Chairman of the Ashford Pubwatch Scheme for two years and was still a senior committee member.

Since the Dixons took over The Albion there had been no crime or disorder issues raised. There had been no issues with Kent Police and no issues relating to crime, disorder, drugs or underage sales. The review had been sought by the Council's Environmental Protection Team on the grounds of noise nuisance from music inside and outside the pub and noise caused by people using the garden at night. There had been no representations received from any other Responsible Authority.

Letters of support from local residents were tabled. Members were given time to read these.

Mr Hopkins advised that the probable complainant used to drink in The Albion. The Dixons accepted that there had been problems relating to noise and that their assurances to the Environmental Protection Team were not always kept. The incident mentioned regarding a man with a hammer was isolated and not related to the pub. Mr Rob Dixon had believed that matters had been resolved but he had taken his foot off the pedal and left matters to carry on. He also had a major personal issue that distracted him from carrying out his duties. Mr Tom Dixon now oversaw the running of The Albion and there had been no complaints since 12th June. There was one incident on the 13th June, this should not occur again as there would be no drums on the premises in the future.

A meeting was held with both the Dixons and Environmental Protection Officers which was constructive and a number of conditions had been agreed. These were in relation to Annex E, conditions two and six were agreed with condition seven to be amended to include 'only smokers after 22:00', condition eight to be amended to read 'Recorded music to finish at 23:30. Recorded music at an ambient or

background level until close', condition nine to be amended to read 'Alcohol sales to cease at 00:00 and the premises to be closed to the public by 00:30'.

Mr Hopkins suggested some alternative conditions to numbers one, three, four and five contained at Annex E. Condition one to read: 'Live music to be limited to solo artistes or duos only. No groups, bands and no drum kits/drummers to be allowed on the premises. DJs are to be permitted in the bar area and function room.' Condition three to read: 'No live music to be allowed in the pool room. Recorded music will be permitted using the jukebox only subject to the limitations imposed by condition eight.' Condition four to read: 'Simultaneous functions to be permitted, each to be covered by the management plan to be submitted to the Licensing Authority, to state one supervisor per 100 people per function.' Condition five to read: 'Back doors to the function room to be lobbied with a distance of 3 metres between the doors, each to be fitted with self closing devices, with all other doors and windows to be kept closed when the function room is in use.'

A Member asked for clarification in regards to one supervisor per 100 people, how would this work if there were two functions taking place each with 50 people in attendance? Would there just be one supervisor? Mr Hopkins advised that there would be one supervisor per event in addition to the bar staff. The booking form had been tightened up and by agreement the Dixons were providing the Council with a weekly list of events.

Mr Tom Dixon advised the Sub-Committee that he was the joint licensee for The Albion. He had grown up in South Willesborough and had jointly purchased the Leasehold for The Albion with his brother. Enterprise Inns had approached them and they had agreed to take on the George Hotel in Ashford. The past two years had seen high rises in duty, the smoking ban and the recession which had caused some concerns for the business. His brother had been under a great deal of stress during this time as he was in the process of a custody battle for his children. He had felt sure that the noise complaint would be resolved and admitted that he did not understand what the noise abatement notice meant. He advised that a management plan had been in place for seven weeks and during that time no complaints had been received. The management of The Albion had been negligible and the DPS had stood down.

Mr Hopkins advised that they had agreed to a noise limiter condition which would see all amplified music and the jukebox linked to the limiter. Mr Myall was to be sent on a BIIAB National Certificate for Designated Premises Supervisor course and Mr Tom Dixon was to apply to be the DPS for The Albion as soon as was possible. He also advised that the Dixons were happy to agree to a condition in regards to noise notices being displayed and indicating that only smokers were allowed outside after a specific time. Although there were problems it was hoped that these had been addressed and that the conditions proposed would prevent issues reoccurring.

In response to questions from Members Mr Tom Dixon advised that a monitor was in place at the end of the bar which was linked to the CCTV and enabled the bar staff to monitor areas that they would not be able to see from the bar. They were asking patrons to not take drinks outside and to be quiet when they were in the smoking area, it was taking some time to get used to but controls were in place to ensure that this happened. The number of staff depended on the number of functions taking place. Usually there were three to four bar staff and a supervisor. From 22:00 a member of staff would man the door to ensure that drinks were not being taken

outside. This had proved to be effective as there had been no complaints received within the seven weeks that this had been in place for.

The Environmental Control Officer advised Members that the complaint regarding noise was initially investigated by leaving a locked and tamper proof recording device at the complainant's property. This had confirmed that loud music and noise from customers was clearly audible inside the complainant's property. A site visit was arranged with Mr Rob Dixon in September 2008 to discuss the complaint. Mr Dixon had stated that windows remained closed and he would contact neighbours, requesting that they notify him of any unacceptable noise levels. Four further complaints were received between 6th December 2008 and 31st January 2009, regarding loud music and customers being noisy when using the garden. After the first complaint, an officer spoke to Mr Myall, the manager, who stated that windows were kept shut and back doors locked after 22:30. Mr Myall was spoken to again in February 2009. He was unaware of any problems. He stated that windows were closed and doors only opened when smokers went outside. An allegation was made of unfair treatment by Officers, due to the fact that the complaints had all arisen from one source. In an attempt to address this concern, it was agreed that where possible an Officer would attend and assess the validity of these complaints.

There had been some quiet periods but this had not lasted. A noise abatement notice had been issued; there had been three occasions where this had been breached. The notice was still in place, although it was felt that the issues previously raised would not reoccur, there was an option to go the Magistrates if it was felt necessary. She advised the Sub-Committee that two of her colleagues were present who would read their statements out and answer any questions that they may have. They were both qualified Officers.

The Environmental Control Officer read her statement of witness to the Sub-Committee, as contained within the agenda papers.

The Environmental Health Manager (Environmental Protection) advised the Sub-Committee that he had been on the periphery of the case and as such had been able to look at the issues from a distance. He had visited The Albion toward the end of May and had witnessed a lot of noise; although he had not entered any of the adjacent properties he had done a circuit of the area on foot. He felt that progress had already been made but the real test would be what would happen in the next few months. He advised that it was the role of the Environmental Protection Team to look at the issues from a professional point of view and to look at them independently.

In response to a question from a Member the Environmental Control Officer advised the Sub-Committee that the Environmental Protection Team were happy with the proposals put forward provided that the Sub-Committee accepted the conditions discussed. She reiterated the Environmental Health Manager's (Environmental Protection) comment in regards to independently assessing the situation.

Mr Tom Dixon advised the Sub-Committee that he found that the Environmental Control Officer conducted herself in a professional manner and was pleased that they had managed to move forward and seemed to be in agreement. Mr Hopkins also praised the Environmental Control Officer for her professional manner.

The Licensing Manager then summed up the nature of the review, the conditions suggested by the licence holder's representative and the Environmental Control

Officer and the issues for the Sub-Committee to consider. He reminded the Sub-Committee that they may modify the conditions of the licence, exclude the licensable activity from the scope of the licence, remove the Designated Premises Supervisor, suspend the licence for a period not exceeding three months or revoke the licence.

The Sub-Committee then retired to make their decision.

On return the Legal Advisor read out the decision.

Resolved:

That the review of the premises licence be granted and the following conditions be applied:

- (i) Live music to be limited to solo artistes or duos. No groups or bands and no drum kits/drummers will be permitted on the premises. DJs in the bar area and function room to be permitted. Live music to finish at 23:30.**
- (ii) No music (live or pre recorded) outside the building. No speakers to be placed outside to carry music from inside to out.**
- (iii) No live music in the pool room. Recorded music will be permitted including the jukebox and subject to limitations imposed by condition viii.**
- (iv) Simultaneous functions to be permitted as covered by the management plan previously submitted to and approved by the Licensing Authority specifying one supervisor per 0–100 people (for each separate function) in addition to the bar staff.**
- (v) A lobby area to the back door of the function room is to be constructed, details of which will have been previously agreed by the Licensing Authority, but to be at least 3 metres between the outside and internal doors, both doors to be fitted with self closing devices and all other doors and windows to be kept closed when music is being played. The lobby to be constructed within a timescale previously agreed by the Licensing Authority.**
- (vi) Silenced, mechanical extract ventilation to be fitted to the bar area and function room to enable the doors and windows to remain closed but adequate ventilation be provided.**
- (vii) No drinks outside after 22:00, only smokers to be outside after this time.**
- (viii) Recorded music to finish at 23:30.**
- (ix) Alcohol sales to cease at 00:00 to ensure that the premises are closed to the public by 00:30.**
- (x) A noise limiter to be installed in the bar area with all amplified music, including the jukebox to be played through it and to be linked to external doors.**

- (xi) The licence holder will ensure prominent, clear notices shall be displayed at all exits requesting customers to leave the premises and the area quietly and to ask smokers be quiet in the garden area.

The Licensing Manager be delegated authority to amend the wording of the conditions as appropriate.

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