

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **30th April 2018**.

Present:

Cllr. Feacey (Chairman);

Cllrs. Mrs Webb, White,

Cllr. Shorter (Reserve).

Also Present:

Licensing Officer, Legal Advisor, Senior Member Services Officer.

PC Alistair Pringle – Licensing Enforcement Officer, Kent Police.

Mr Chemjong – Licence Holder.

Mr Keating – Licence Holder's Representative.

433 Election of Chairman

Resolved:

That Councillor Feacey be elected as Chairman for this Meeting of the Licensing Sub-Committee.

434 Minutes

Resolved:

That the Minutes of the Meetings of this Sub-Committee held on the 21st November 2017 and 1st December 2017 be approved and confirmed as correct records.

435 The Gurkha Villa, 30 Bank Street, Ashford – Review of the 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 Officer then gave a brief summary of his report. He said the application to be considered by the Sub-Committee was for the review of the premises licence under the provisions of Section 51 to the Licensing Act 2003. The

application had been made by Chief Inspector Andrew Somerville on behalf of the Chief Officer of Kent Police. The review was set out in Appendix A of the report. The grounds for the review as stated by the Applicant were various incidents involving violence or criminal damage at or near the premises, poor management and supervision and breaches of conditions over a sustained period of time. He advised that the premises was a Nepalese Bar and Restaurant serving hot food and playing live and recorded music at events. He also summarised the current opening hours set out in the licence. The Licensing Officer concluded by outlining the decision options available to the Sub-Committee.

Mr Keating introduced himself and Mr Chemjong, who had recently replaced Mr Dewan as the Designated Premises Supervisor (DPS) at The Gurkha Villa. He said that the Company had taken the concerns of the Police very seriously and that Mr Chemjong acknowledged that Mr Dewan had not often been at the premises. Going forward, Mr Chemjong would be there a large part of the time when the premises was open. The venue had inherited a previous nightclub licence which had a lot of conditions that were inappropriate for the premises' current use. The Police had suggested a number of variations to the conditions which Mr Chemjong agreed, particularly regarding the proposed changes in licensing hours and the use of CCTV. He advised that all staff would be trained in the use of the newly installed CCTV system and be made aware of the licensing conditions and the objectives of the Licensing Act. He said that there would be five staff present on Friday and Saturday nights and less staff during the week when the premises was less busy. The only issue of concern they had with the suggested conditions was the requirement for registered door staff as it would not be normal to have door staff at a restaurant. Mr Keating suggested that the premises had two trained door staff only when they were holding a ticketed event with music.

Regarding the other concerns, Mr Keating confirmed that there would not be unaccompanied children on the premises, no off-sales permitted and confirmed that the primary purpose of the premises would be as a restaurant with alcohol as ancillary to the service of food as table meals. He hoped that the Sub-Committee could see that the Company had responded to the concerns of the Police and that they were happy with what had been put in place.

The Sub-Committee then asked various questions of Mr Chemjong and Mr Keating, raising the following concerns:-

- That whilst not the appointed DPS, Mr Chemjong had been managing the premises for some time and there had been a lot of problems during that period. The Company had had numerous opportunities to respond to the problems and amend their previous nightclub licence, but nothing had been done. Therefore, how could they have any confidence that Mr Chemjong would be able to improve the situation going forward? In response, Mr Chemjong advised that Mr Dewan had previously run the premises but had experienced difficulties because of also running his other restaurant in Aldershot. He had therefore asked Mr Chemjong to step in. Mr Chemjong had asked Mr Dewan many times to amend the licensing conditions, but he had not dealt with it.

- There were also concerns about the CCTV which had not been managed properly for more than a year and, on two occasions, Mr Chemjong had not been able to provide CCTV recordings of incidents to the Police. Police and Licensing Officers had given a lot of guidance on the use of CCTV, in addition to compliance with other conditions, but again nothing had happened. In response Mr Chemjong said they now had a properly installed, working CCTV system which recorded simultaneously over a 24 hour period, and he had received training on its use. It was acknowledged that the previous CCTV had not been correctly installed, however a completely new system was now in place, and Mr Keating had been to the premises to see it and it was working and recording properly. Mr Chemjong was confident that if there were any other issues he could provide CCTV footage.
- Members said they were also confused as to whether the premises was run as a restaurant, a bar or a nightclub. They were also concerned that there seemed to be no plan in place for Mr Chemjong to meet the licensing conditions and improve operation of the premises going forward. In response, Mr Chemjong confirmed it had been a nightclub but his Company wanted to run the premises properly as a restaurant. He confirmed that as yet he had no formal plan in place to ensure that the premises met the licensing objectives.

PC Pringle, on behalf of the Chief Officer of Police, outlined the application for a review of the premises licence. The application was summarised in Appendix A of the report. He emphasised the two incidents of criminal damage and the serious disturbance involving a number of customers and glass throwing in April 2017. There had been poor management, failure to comply with conditions and failure to provide CCTV on two occasions despite warnings and guidance from the Police. Since the first incident on 22nd April 2017, the Police and Ashford Borough Council Officers had had more than 30 interactions with Mr Chemjong to coach, advise and assist. Those interactions were all set out at Appendix A of the report. As a result of the Company's failure to respond positively to any of the advice, they had severely undermined the Licensing Objectives and therefore the Police considered they had little choice but to apply for a review of the licence. It was the view of Kent Police that revocation of the licence should be considered, but if not they recommended a number of changes in the licensing conditions, particularly with regard to hours, as summarised in the report.

In response to questions from the Sub-Committee, PC Pringle said that the Police had real concerns about Mr Chemjong's ability to comply with the licensing conditions. This was because he had been the manager throughout the whole period that the Police had been involved. Despite a lot of guidance and advice, in his view there had been no action.

Also in response to questions, Mr Chemjong confirmed that it was one customer, a member of the Nepalese community, who had caused the first incident at the premises in April 2017. He had been banned for six months and then came back in January 2018 and caused criminal damage at the premises on the 15th January 2018. However, the man had now been banned completely. Mr Chemjong confirmed that approximately 95% of their customers were Nepalese and 5% were others in the community. Finally, the Chairman asked if Mr Chemjong was going to take advice on

putting together a plan of how he would address and meet the Licensing Objectives. Mr Chemjong confirmed that he would do that.

The Sub-Committee then retired to deliberate and make their decision.

On return the Chairman read out the Licensing Sub-Committee's decision and reasons.

The Sub-Committee were very concerned that Mr Chemjong had not put in place any measures during the last year despite all of the advice from the Police and Licensing Officers. They were mindful of the importance of the business, particularly to the Nepalese community, however they were very concerned about whether either Mr Dewan or Mr Chemjong really understood the importance of the Licensing Objectives. They agreed with all of the amended conditions proposed by the Police, but thought that Mr Chemjong should supply a clear plan of how he was going to put in place all of the conditions before he should be allowed to operate the licensed premises. For those reasons the Sub-Committee made the following decision.

Resolved:

That the licence be varied as follows:

Timings

- 1. Authorised hours for all licensable activities will end at 23.00 hours Monday to Thursday and 00.00 hours on Friday to Sunday.**
- 2. Opening hours (closing times of premises) will be 23.30 hours on Monday to Thursday and 00.30 hours on Friday to Sunday.**
- 3. Non-Standard timings and seasonal variations:
Bank Holiday Mondays – 11.00 to 01.00
Christmas Eve – 11.00 to 01.00
New Year's Eve – 11.00 to 01.00**

Proposed Conditions

- 1. Alcohol On-Sales Only**

Prevention of Crime and Disorder

- 1. A CCTV System be installed at the premises and maintained in good and efficient working order to the satisfaction of both the Licensing Authority and Kent Police; The system will be operated by trained staff, be in operation at all times that the premises are being used for any licensable activity, ensure coverage of entrances and exits to the licensing premises, externally and internally and provide continuous recording facilities for each camera to a good standard and clarity. Recordings will be retained on disc or otherwise for 30 days and will be supplied to the Licensing Authority or Police Officer on request.**

2. **The License Holder will ensure that an incident record is maintained at the premises and all staff will be trained in its use. This will be bound and clearly marked with the following information: - time and date of incident; full description of incident; description/name of any persons involved in incident; actions taken by any staff member; details of all staff present at time of incident; name of staff member making the entry; time of entry.**
3. **The Licence Holder will ensure that staff are fully trained in responsible sales of alcohol (BIIAB or equivalent) and that training records are kept.**
4. **The Licence Holder shall ensure that appropriate numbers of staff are on duty to monitor for crime and disorder. Such staff are to be trained as appropriate to promote the prevention of crime and disorder objective.**
5. **Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and as ancillary to the meal.**
6. **Anyone leaving the premises will not be permitted to remove or take with them open bottles or containers of any kind that contain or have contained beverages of any type.**

Public Safety

1. **A Minimum of two SIA licensed door supervisors to be present at the premises for any organised ticketed or advertised event as defined by the Licensing Authority/Kent Police. SIA registered door staff will remain until everyone has left the building and immediate vicinity.**

The Prevention of Public Nuisance

1. **The Licence Holder will ensure where necessary that noise from the premises is monitored and any concerns are addressed immediately.**

Protection of Children from Harm

1. **Children to be accompanied by an appropriate adult in the restaurant at all times.**

Temporary Suspension of the Licence

Although the Sub-Committee have decided to amend the Licence as recommended by the Police, Members are so concerned about the poor management of the premises over the last year, that they have decided to suspend the licence for a maximum period of one month to enable the Company to prepare and agree with the Licensing Authority a plan for how Mr Chemjong and all staff will be aware of and comply with the conditions on the licence in order to meet the Licensing Objectives.

The suspension is for a maximum period of one month and it will be for the Licensing Authority to confirm that they are satisfied with the plan and that the suspension can be lifted. If that is not achieved within the month, a further review meeting will be held.

The decision notice and formal wording read out by the Legal Advisor is appended to these minutes.

LICENSING SUB-COMMITTEE
Monday 30th April 2018

**APPLICATION FOR A REVIEW OF THE PREMISES LICENCE FOR THE
GURKHA VILLA, 30 BANK STREET, ASHFORD, KENT, TN23 1BA UNDER THE
PROVISIONS OF SECTION 51 OF THE LICENSING ACT 2003**

LICENSING SUB-COMMITTEE DECISION AND REASONINGS

**OFFICER CASE
STATEMENT OF :**

Licensing Officer

**REASON FOR
MEETING:**

An application was made by the Police to review a premises licence for the Gurkha Villa, 30 Bank Street, Ashford TN23 1BA.

DELIBERATION:

The Licensing Officer summarised the review which had been brought by Kent Police and was set out in Appendix A of the report. The premises is a Nepalese Bar and Restaurant serving hot food and playing live and recorded music at events. The Officer summarised the current opening hours set out in the licence and the representations from Police relating to various incidents, poor management and supervision and breaches of conditions over a sustained period of time.

Mr Keating, Solicitor for Gurkha Villas, confirmed that Mr Chemjong has applied for and been appointed as Designated Premises Supervisor (DPS), replacing Mr Dewan the previous DPS. He said that Mr Chemjong acknowledged that Mr Dewan was not often at the premises. Mr Chemjong would be there a large part of the time when it was open. He had inherited a previous nightclub licence which had a lot of conditions that were inappropriate for the premises' current use. The Police had suggested a number of varied conditions which Mr Chjemjong agrees, particularly re. the change in licensing hours and use of CCTV. All staff will be trained in use of the CCTV and be made aware of the licensing conditions. He said that there will be five staff present on Friday and Saturday nights and less staff during the week when the premises is less busy. The only issue of concern was the requirement for registered door staff as it was not normal to have door staff for a restaurant. He suggested that the premises had two trained door staff only when there is a ticket event with music.

Re the other concerns Mr Keating confirmed that there would not be unaccompanied children on the premises, no off-sales and the

primary purpose of the premises would be as a restaurant with alcohol as ancillary to the service of food.

The Sub-Committee asked various questions of Mr Chemjong and Mr Keating and raised the following concerns:-

1. That Mr Chemjong had been managing the premises for some time, there had been a lot of problems during the time and he had had adequate time to respond to the problems and amend their previous nightclub licence. In response Mr Chemjong that Mr Dewan had previously run the premises but had difficulty because of his other restaurant in Aldershot so had asked Mr Chemjong to step in. Mr Chemjong had asked Mr Dewan many times to amend the licensing conditions, but he had not dealt with it.
2. Concerns about the CCTV which had not been managed properly for more than a year and on two occasions Mr Chemjong had not been able to provide CCTV recordings of incidents to the Police. Police and Licensing Officers had given a lot of guidance on use of CCTV, in addition to compliance with other conditions, but nothing had happened. In response Mr Chemjong said they now had a properly installed, working CCTV system which records simultaneously over a 24 hour period, and he has had training on its use. He is confident that if there are any other issues he can provide CCTV footage.
3. That the Sub-Committee was confused as to whether the premises were run as a restaurant, bar or nightclub. They were also concerned that there seemed to be no plan in place for Mr Chemjong to meet the licensing conditions and improve operation of the premises going forward. In response, Mr Chemjong confirmed it had been a nightclub but his company wanted to run the premises properly as a restaurant. He confirmed that as yet he has no plan in place to ensure that the premises meets the licensing objectives.

PC Pringle then summarised the grounds of application for the review which are summarised in Appendix A of the report. He emphasised the two incidents of criminal damage and the serious disturbance involving a number of customers and glass throwing in April 2017. There has been poor management, failure to comply with conditions and failure to provide CCTV on two occasions despite warnings and guidance from the Police. Since the first incident on 22nd April 2017 the Police and Ashford Borough Council have had more than 30 interactions with Mr Chemjong to coach, advise and assist. Those interactions are all set out at Appendix A of the report. Because of the Company's failure to respond positively to any of the advice, the Company had severely

undermined the Licensing Objectives and therefore the Police had no choice but to apply for a review of the licence. In place of revocation, they recommend changes in the licensing conditions as summarised in the report.

PC Pringle said that the Police had real concerns about Mr Chemjong's ability to comply with the licensing conditions. This is because he has been the manager throughout the whole period that the Police have been involved. Despite a lot of guidance and advice there had been no action. In response to various questions from the Sub-Committee Mr Chemjong confirmed that he had been a Director of the Company since 2017 and Mr Dewan was still involved as a business partner. He explained that he had repeatedly asked Mr Dewan, as DPS, to put in place compliance with the licensing objectives, but Mr Dewan never did anything. He also explained that the CCTV Engineer had not installed the CCTV correctly the first time, however he has now changed the system completely, Mr Keating has been to the premises to see it and it is working and recording properly.

Mr Chemjong also confirmed that it was one customer, a member of the Nepalese community, who had caused the first incident in April 2017. He was banned for six months and then came back in January 2018 and caused criminal damage on the 15th January 2018. However the man was now banned completely. Mr Chemjong confirmed that 95% of their customers were Nepalese and 5% others in the community.

Finally, the Chairman asked if Mr Chemjong was going to take advice on putting together a plan of how he would address and meet the Licensing Objectives. Mr Chemjong confirmed that he would do that.

The Sub-Committee then retired to deliberate and make their decision.

The Sub-Committee were very concerned that Mr Chemjong had not put in place any measures during the last year despite all of the advice from the Police and Licensing Officers. They were mindful of the importance of the business, particularly to the Nepalese community, however they were very concerned about whether either Mr Dewan or Mr Chemjong really understood the importance of the Licensing Objectives. They agreed with all of the amended conditions proposed by the Police but thought that Mr Chemjong should supply a clear plan of how he was going to put in place all of the conditions before he should be allowed to operate the licensed premises. For those reasons the Sub-Committee made the following decision.

DECISION MADE:

That:

The licence be varied as follows:

Timings

1. **Authorised hours for all licensable activities will end at 23.00 hours Monday to Thursday and 00.00 hours on Friday to Sunday.**
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2. **The License Holder will ensure that an incident record is maintained at the premises and all staff will be trained in its use. This will be bound and clearly marked with the following information: - time and date of incident; full description of incident; description/name of any persons involved in incident; actions taken by any staff member; details of all staff present at time of incident; name of staff member making the entry; time of entry.**
3. **The Licence Holder will ensure that staff are fully**

trained in responsible sales of alcohol (BIAB or equivalent) and that training records are kept.

4. The Licence Holder shall ensure that appropriate numbers of staff are on duty to monitor for crime and disorder. Such staff are to be trained as appropriate to promote the prevention of crime and disorder objective.
5. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and as ancillary to the meal.
6. Anyone leaving the premises will not be permitted to remove or take with them open bottles or containers of any kind that contain or have contained beverages of any type.

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The Prevention of Public Nuisance

1. The Licence Holder will ensure where necessary that noise from the premises is monitored and any concerns are addressed immediately.

Protection of Children from Harm

1. Children to be accompanied by an appropriate adult in the restaurant at all times.

Temporary Suspension of the Licence

Although the Sub-Committee have decided to amend the Licence as recommended by the Police, Members are so concerned about the poor management of the premises over the last year, that they have decided to suspend the licence for a maximum period of one month to enable the Company to prepare and agree with the Licensing Authority a plan for how Mr Chemjong and all staff will be aware of and comply with the conditions on the licence in order to meet the Licensing Objectives.

The suspension is for a maximum period of one month and it will be for the Licensing Authority to confirm that they are satisfied with the plan and that the suspension can be lifted. If that is not achieved within the month, a further review meeting will be held.

Additional notes made by the Sub-Committee at the meeting –

Right of Appeal

- This decision does not take effect until
 - (a) The end of the period given for appealing the decision or
 - (b) If the decision is appealed against, until the appeal is disposed of.

An appeal must be commenced by notice of appeal given by the Appellant to the Magistrates Court within 21 days of the date of this notice.