

Minutes of the Licensing Sub-Committee

7 October 2021

-: Present :-

Councillors Ellery, Barbara Lewis and Douglas-Dunbar

21. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

22. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Douglas-Dunbar instead of Councillor Dart.

23. Minutes

The Minutes of the meeting of the Sub-Committee held on 19 August and 2 September 2021 were confirmed as a correct record and signed by the Chairman.

24. Hyde Dendy, 18 Esplanade Road, Paignton, TQ4 6BD

Members considered a report on an application for a Variation to a Premises Licence in respect of Hyde Dendy, 18 Esplanade Road, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation in respect of the Licensing Objectives 'The Prevention of Crime and Disorder' and 'the Protection of Children from Harm'.	10 September 2021
Public Protection Officer	Representation in respect of the Licensing Objectives 'Public Safety' and 'The Prevention of Public Nuisance'.	13 September 2021

Oral Representations received from:

Name	Details
Applicant's Representative	The Applicant's Representative outlined the application and responded to Members questions.
Police	The Police outlined their representation and responded to

	Members questions.
Public Protection Officer	The Public Protection Officer outlined his representation and responded to Members questions.

Decision:

That the application for a Variation to a Premises Licence in respect of the Hyde Dendy, 18 Esplanade Road, Paignton, TQ4 6BD be granted as applied for, subject to the following conditions:

- 1) That there shall be no under 18's permitted on the premises after 10 pm except for staff and those staff shall be permitted up until 11 pm only.
- 2) All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after 11 pm from which it is intended or likely that a person shall drink.
- 3) The placing of refuse, such as bottles, in receptacles outside the premises must not take place between 10 pm and 9 am to prevent disturbance to nearby properties.
- 4) All staff involved in the sale of alcohol after midnight at the premises shall be trained and hold, within three months of the commencement of their employment, the BIIAB Level 1 Award in Responsible Alcohol Retailing, or similar qualification.
- 5) A clicker system shall be in operation at the premises to ensure number capacity of the new licensed area to that of the current licensed area is maintained.
- 6) A queuing area shall be identified in the new licensed area and the current licensed area to ensure that those wishing to use the toilets do not cause an obstruction in the connecting corridor.
- 7) Where the new licensed area is open for the sale of alcohol after midnight and closes after 00.30 hours there shall be a minimum of 7 SIA door supervisors employed on the premises from 22.00 hours until 30 minutes after the premises closes. At all other times, the ratio of door stewards shall be as identified in condition 3 of Annex 3 of the current premises licence.
- 8) When the new licensed area is open, the maximum capacity in that area shall not exceed 150 patrons.
- 9) That there shall be a written Noise Management Plan in place, in accordance with the findings of an up-to-date Noise Consultant report, and as agreed by the Licensing Authorities Public Protection Officer.

- 10) That the current gate leading from the premises, exiting on to Kernou Road shall be of a more solid structure and shall be converted to the height of the pillars currently in situ.

Reasons for Decision

Having carefully considered all the written and oral representations, Members resolved to grant the application for a Variation to a Premises Licence having been satisfied that with the additional conditions, the variation applied for would not undermine the Licensing Objectives and would not cause a nuisance to nearby residents. In coming to that decision, Members were further reassured, having heard from both the Police and the Public Protection Officers that these premises were well managed and that these Officers were confident that should an issue of concern arise, the Premises Licence Holder would work with them to find a resolve.

Whilst noting the application was to increase the premises capacity by 250 patrons', Members could not be satisfied on the evidence before them that such a number would not add to crime and disorder, especially in respect of the internal pinch point or increase levels of noise upon dispersal of such a number of patrons. Therefore, Members sought to reduce the number permitted in the extended licensed area and put conditions in place that if complied with, would alleviate the risks associated with a pinch point from within the premises. Should Members concern regarding increased crime and disorder and noise prove to be unfounded due to effective management, Members would welcome the submission of a further application to extend this number.

Members sought to further strengthen the measures already in place in respect of the gate on to Kernou Road, by requiring the installation of a greater physical barrier, determining that this would better deter patrons attempting to exit the premises via this gate on to Kernou Road.

In concluding, Members noted the submission of the Responsible Authorities, the responses given by the premises representative and those supporting the application and resolved that the reduction in the number of patrons in the extended licensed area and the inclusion of the additional conditions would alleviate their concerns.

25. Adjournment

At this juncture, the meeting adjourned until 1.30 pm.

26. Review of a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham, TQ5 9BU

Members considered a report on an application for a Review of a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Application and supporting information for a Review Hearing.	4 August 2021
Public Protection Officer	Representation in support of the application for Review.	31 August 2021

Additional Information:

Prior to the Hearing the Police requested additional documents to be circulated including suggested additional conditions.

With the agreement of the Chairman, the time permitted for the submission of oral representations was extended to 20 minutes for all parties.

At the Hearing, proposed additional conditions from the Public Protection Officer were circulated.

Oral Representations received from:

Name	Details
Applicant (Police)	The Applicant for a Review of Premises Licence outlined their application.
Public Protection Officer	The Public Protection Officer outlined his representation and suggested additional conditions.
Respondent	The Respondent outlined her representation and confirmed that they agreed with the suggested additional conditions submitted by the Applicant (Police) and the Public Protection Officer.

Decision:

That in respect of the application for a Review of a Premises Licence of Jackz Bar, Parkham Road, Brixham, Members resolved to modify the conditions of the premises licence to include the conditions proposed by the Police and Public Protection Officers, as agreed by the Respondent, Premises Licence Holder, along with the following two conditions:

- 1) That Mr Ross Hennessey be prohibited from entering the premises during operational hours.
- 2) That Mr Ross Hennessey shall not be involved in or influence the operation of these premises; and

That the premises licence shall be suspended until 7 January 2022.

Reasons for Decision

In coming to this decision, Members had careful regard to all the written and oral representations from both the Respondent, Premises Licence Holder and the two Responsible Authorities, namely, the Police and Public Protection.

Members noted the Respondent, Premises Licence Holder's acceptance in full of the proposed conditions put forward by the Police and the Public Protection Officers and were satisfied on the evidence before them, that these were both appropriate and proportionate.

In respect of the two additional conditions which prohibit Mr Ross Hennessey from entering the premises during operational hours, and from having any involvement or influence in these premises' operations, Members determined this was again both necessary and proportionate, to enable the new Premise Licence Holder, Ms Stephanie Trust, an employee of Mr Hennessey, the opportunity to operate the Premises without influence or interference by him which ensured that the conditions of the premises were complied with and that the Licensing Objectives would be promoted.

In determining this, Members noted that Mr Hennessey had applied for a transfer of the premises licence to himself in respect of these premises and that at a Licensing Sub-Committee hearing held on the 24 June 2021, Members of that Committee unanimously resolved to refuse this application, following an objection by the Police, coupled with determining at an earlier hearing that same day, that Mr Hennessey's Premises Licence of another premises operated by him be revoked. Despite this refusal and noting that the Premises Licence and Designated Premises Supervisor were transferred with immediate effect later that day into the name of another, being Miss Holly Harley who was also an employee of Mr Hennessey, it appeared to Members on the evidence before them, that Mr Hennessey sought to circumvent this decision, with Ms Harley being no more than a front, enabling him to operate these premises as he had intended.

In forming this view, Members noted the submissions of the Responsible Authority Officers that Mr Hennessey had continued to influence and have considerable involvement in the Premises, despite holding no licensed position. Added to this, was confirmation by Ms Stephanie Trust who had only formally been appointed to this position the morning of the Review hearing, following notification from Miss Harley to the Police two days before the hearing that in respect of these premises she had resigned from the position of Premises Licence Holder and Designated Premises Supervisor with immediate effect and that both Ms Harley and Mr Hennessey had agreed to transfer the Premises Licence and Designated Premises Supervisor position to Ms Trust., that Mr Hennessey had co-written the response read out by her at the Review hearing which of concern to Members, did not accord with Ms Trust's earlier confirmation that she accepted in full the proposed conditions put forward by the Responsible Authority Officers; and Mr Hennessey being present at this Review hearing, with Ms Trust looking to him for responses.

Member gave careful consideration to revoking the Premises Licence, having heard the number and seriousness of incidents that had occurred at these

premises within a four month period of the premises being transferred to Ms Harley, to that previously recorded within each twelve month period under the previous ownership; and the absence of an experienced and independent Premises Licence Holder to operate these premises in a responsible manner, with a firm management style required of these premises which holds a late licence and ensured that the Licensing Objectives would be promoted.

However, having carefully taken all factors in to consideration, including Ms Trust working at the premises on a casual basis for fifteen years, her recognition that she needs to ensure separation between her employer and her responsibilities as the Premises Licence Holder and commending her for attending the Review Hearing, confirming that she was willing for it to go ahead, despite only just taking on the position, Members resolved to provide Ms Trust with an opportunity to operate these premises, as opposed to revoking the Premises Licence. Nevertheless, Members could not be satisfied on the evidence before them that Ms Trust possessed the skills or experience necessary to take on this role immediately, ensuring that all the conditions of the Premises Licence would be complied with and that the Licensing Objectives would be promoted. In forming this opinion, Members noted that Ms Trust had never held such a position before and when asked about appropriate policies, relating to drugs, weapons, noise management etc for staff to follow to ensure the premises were operated in a responsible manner which promoted the Licensing Objectives, familiarity of the Premises Licence conditions and what she would do when faced with challenging circumstances, Ms Trust's answers were very vague. Included in this, was Ms Trust's submissions that she would do whatever Members thought best and would take their recommendation of the training they thought she needed.

In light of this, Members determined that a three-month suspension was appropriate and proportionate, to enable Ms Trust to undertake necessary training for herself and where appropriate, staff too, to implement practices, procedures and policies to improve the management of these premises going forward, for all staff involved in the sale of alcohol to be aware of their responsibilities, all relevant staff to be fully aware of the conditions of the premises licence and their responsibilities in ensuring compliance is maintained, including employed SIA Door Stewards and to put in place the actions required, arising out of the new conditions proposed by both the Police and Public Protection Officers. Only then, could Members be assured that the Licensing Objectives would be promoted, and the concerns raised by the Responsible Authorities and formed by themselves on the evidence before them, be alleviated.

Chairman/woman