

Minutes of the Licensing Sub-Committee**24 June 2021****-: Present :-**Councillors Barnby, Ellery and Dart

7. Election of Chairman

Councillor Ellery was elected as Chairman for the meeting.

8. Apologies

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

9. Licensing Act 2003 – An application for a Review of a Premises Licence for, Hennessey Cocktails, 2 King Street, Brixham

Members considered an application for a Review of a Premises Licence, in respect of the Premises detailed above.

Written Representations received from:

Name	Details	Date of Representation
Public Protection	Representation in support of the application for a Review of a Premises Licence on the grounds of 'Public Safety', 'The Prevention of Public Nuisance' and 'The Prevention of Crime and Disorder'.	28 May and 29 June 2021
Member of the Public	Representation in support of the application for a Review of a Premises Licence on the ground of 'The Prevention of Public Nuisance'.	18 May 2021
Member of the Public	Representation in support of the application for a Review of a Premises Licence on the ground of 'The Prevention of Public Nuisance'.	25 May 2021

Name	Details	Date of Representation
Member of the Public	Representation objecting to the application for a Review of a Premises Licence.	25 May 2021
Member of the Public	Representation objecting to the application for a Review of a Premises Licence.	26 May 2021
Member of the Public	Representation in support of the application for a Review of a Premises Licence on the ground of 'The Prevention of Public Nuisance'.	29 May 2021
Member of the Public	Representation in support of the application for a Review of a Premises Licence on the ground of 'The Prevention of Public Nuisance' and 'The Prevention of Crime and Disorder'.	30 May 2021

Oral Representations received from:

Name	Details
Applicant (Police)	The Police Representative presented their application for the Review and responded to Members questions.
Public Protection	The Public Protection Officer outlined his representations and responded to Members questions.
Mr Perkes	Mr Perkes outlined his representation in support of the request of a Review of the Premises Licence and responded to Members questions.
Respondent (Mr Hennessey)	The Respondent submitted a response to the Review and answered Members questions.

The following additional information was submitted by the Respondent and circulated on 23 June 2021:

Name	Details	Date of Representation
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'	Undated
Public Protection	Copy of an extract of an email from Karl Martin regarding recorded music not being a concern due to a well-designed	8 October 2018

Name	Details	Date of Representation
	PA system backed up with a limiter.	
Estimate from FTS	Estimate for sound system.	Undated
Police	Extract of an email regarding providing CCTV.	21 December 2020
Respondent	Extract of an email response from Mr Hennessey to the Police email dated 21 December.	21 December 2020
Respondent	Extract from an email from Mr Hennessey to the Police and Public Protection regarding providing CCTV on a memory stick.	23 December 2020
Ms Cottell	Email regarding recent visit to the Premises.	12 May 2021
Respondent	Statement in response to events referred to in the Review documentation and advising of additional procedures and policies.	Undated

Decision:

That the Premises Licence in respect of Hennessey Cocktails, 2 King Street, Brixham be revoked.

Reason for Decision:

Having carefully considered all the oral and written Representations, Members resolved unanimously to revoke the Premises Licence, as they could not be satisfied on the evidence before them that the Premises Licence Holder, Mr Hennessey, would comply with all the conditions of his premises licence and with that, ensure the Licensing Objectives would be promoted.

In coming to that decision, Members noted the concerns raised by the Police and Public Protection Officers in respect of Mr Hennessey's management of these Premises, the previous advice and guidance given to him by them and his subsequent non-compliance with conditions of his Premises Licence, particularly in respect of CCTV and the requirement to make the recordings available within 14 days, in a standard and appropriate format subsequently requested by the Police. In this regard, Members noted that Mr Hennessey had only made available to the Police the hard drive, believed to contain the recordings some three months later, at which time it was reported that there was nothing of evidential value found.

In Members opinion, they found Mr Hennessey had acted in an obstructive manner for the sole purpose of attempting to avoid a prosecution, in accordance with The Health Protection (Coronavirus, Restrictions) (All Tiers) (England)

Regulations 2020 Regulation 8 and Schedule 2, Part 3 paragraph 14 (-1). In forming this opinion, Members, had regard to the oral evidence of the Responsible Authority Officers and the Police's legal representative; and that set out in the Licensing Authority's Public Protection Officer's representation, at paragraph 16, page 92 of the report before them which referenced an email sent by Mr Hennessey to the Council in February 2021 which states that Mr Hennessey posed the question 'if the Council do not have a copy of the CCTV then they have no evidence of the Covid Breaches'.

Whilst these Regulations are not specifically a licensing matter, Members noted Mr Hennessey's submissions that he was aware of the requirements in this regard, that he had also read the additional guidance provided by the Responsible Authority and had spoken with one of the Licensing Authority's Officers about this. It was following these submissions that Members had serious concern of Mr Hennessey's suitability to remain a Premises Licence Holder, in the knowledge that there was a global pandemic, a significant number of persons had died as a direct result, what restrictions were in place at the time and despite this, Mr Hennessey actively chose to place people's lives at risk by ignoring these Regulations, in allowing his premises to be used for the sole purpose of a private party which in Members opinion, would not have been compliant with the restrictions in place at the time and Mr Hennessey would have known this; and furthermore, Mr Hennessey had on a separate occasion, sold alcohol to persons without providing food, as required by the Regulations. This was in addition of the attempt by Mr Hennessey to mislead Responsible Authority Officers in to believing that his premises were closed at the time, a position which Mr Hennessey chose to maintain to Members of the Sub-Committee.

Coupled together, Members found Mr Hennessey had acted recklessly with a poor attitude towards the Regulations in place and this caused them grave concerns about his ability, suitability and willingness to operate a licensed premises in a responsible manner, compliant with the conditions of that premises licence and to ensure promotion of the Licensing Objectives above all else, given the evidence before them. Members also found Mr Hennessey to be wholly dishonest in his account of the various events discussed.

Overall and unanimously, Members resolved that Mr Hennessey's conduct fell well below the standards reasonably expected by them of a responsible Premises Licence Holder and for the reasons given, they had no confidence in him operating this premises in the future and therefore determined that revocation was in their opinion, an appropriate and proportionate outcome of this Review.

In concluding, Members considered what if any modifications could be made to the premises licence, as opposed to a revocation but resolved on the evidence before them, that there were none. In addition, Members considered removing Mr Hennessey as the Designated Premises Supervisor but resolved that this would not be enough to alleviate their concerns, as Mr Hennessey would still have day to day control of the premises.

10. Licensing Act 2003 – An application for a Transfer of the Premises Licence for Hennessey Late Lounge Bar, 2 New Road, Brixham, Devon, TQ5 8NE

Members considered an application for a transfer of the Premises Licence for Hennessey Late Lounge Bar, 2 New Road, Brixham, TQ5 8NE.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation objecting to the transfer on the grounds of 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'.	27 May 2021

Oral Representations received from:

Name	Details
Police	The Police Representative presented their objection to the application and responded to Members questions.
Applicant	The Applicant presented their application and responded to Members questions.

Decision:

That the application for a transfer of the Premises Licence in respect of Hennessey Late Lounge Bar, 2 New Road, Brixham be refused.

Reason for Decision:

Having carefully considered all the oral and written Representations, Members resolved unanimously to refuse the transfer of both Premises Licence to Mr Hennessey and to specify him as the Designated Premises Supervisor of those Premises in turn, as they could not be satisfied on the evidence before them, that the premises operations would be compliant with the conditions of its licence and that the Licensing Objectives would be promoted.

In coming to that decision, Members noted that Mr Hennessey had agreed for all four applications to be heard at the same time and that he did not wish to make any comment on these applications.

On hearing the submissions from the Police's legal representative, in simply wishing Members to consider that which they had heard in respect of Mr Hennessey's management of Hennessey Cocktails, 2 King Street, Brixham and; if Members could not be satisfied that Mr Hennessey was suitable to hold that premises licence, how could they be satisfied to grant these applications which were for later terminal hours and would naturally require firmer control.

Noting that these were separate applications and that due regard was needed to be given to each one in turn, Members determined that an outright refusal in respect of each application was both appropriate and proportionate, for the reasons given in their decision for the revocation of Premises Licence held by Mr Hennessey, in respect of Hennessey Cocktails, 2 King Street Brixham and; in the absence of any submissions by Mr Hennessey in respect of these applications to the contrary, Members found no reason to depart from their findings of Mr Hennessey's inability, unsuitability and apparent unwillingness to operate a licensed premises in a responsible manner.

11. Licensing Act 2003 – An application for a Transfer of the Premises Licence for Hennessey Sports Bar, Parkham Road, Brixham, Devon, TQ5 9BU

Members considered an application for a transfer of the Premises Licence for Hennessey Sports Bar, Parkham Road, Brixham, TQ5 9BU.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation objecting to the transfer on the grounds of 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'.	27 May 2021

Name	Details
Police	The Police Representative presented their objection to the application and responded to Members questions.
Applicant	The Applicant presented their application and responded to Members questions.

Decision:

That the application for a transfer of the Premises Licence in respect of Hennessey Sports Bar, Parkham Road, Brixham be refused.

Reason for Decision:

Having carefully considered all the oral and written Representations, Members resolved unanimously to refuse the transfer of both Premises Licence to Mr Hennessey and to specify him as the Designated Premises Supervisor of those Premises in turn, as they could not be satisfied on the evidence before them, that the premises operations would be compliant with the conditions of its licence and that the Licensing Objectives would be promoted.

In coming to that decision, Members noted that Mr Hennessey had agreed for all four applications to be heard at the same time and that he did not wish to make any comment on these applications.

On hearing the submissions from the Police's legal representative, in simply wishing Members to consider that which they had heard in respect of Mr Hennessey's management of Hennessey Cocktails, 2 King Street, Brixham and; if Members could not be satisfied that Mr Hennessey was suitable to hold that premises licence, how could they be satisfied to grant these applications which were for later terminal hours and would naturally require firmer control.

Noting that these were separate applications and that due regard was needed to be given to each one in turn, Members determined that an outright refusal in respect of each application was both appropriate and proportionate, for the reasons given in their decision for the revocation of Premises Licence held by Mr Hennessey, in respect of Hennessey Cocktails, 2 King Street Brixham and; in the absence of any submissions by Mr Hennessey in respect of these applications to the contrary, Members found no reason to depart from their findings of Mr Hennessey's inability, unsuitability and apparent unwillingness to operate a licensed premises in a responsible manner.

12. Licensing Act 2003 – An application for a Variation to a Premises Licence to Specify an Individual as the Hennessey Late Lounge Bar, 2 New Road, Brixham, Devon, TQ5 8NE

Members considered an application for a variation to a Premises Licence to specify an individual as the Designated Premises Supervisor at the Hennessey Late Lounge Bar, 2 New Road, Brixham, TQ5 8NE.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation objecting to the transfer on the grounds of 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'.	27 May 2021

Oral Representations received from:

Name	Details
Police	The Police Representative presented their objection to the application and responded to Members questions.
Applicant	The Applicant presented their application and responded to Members questions.

Decision:

That the application for a variation of the Premises Licence to specify Mr Hennessey as the Designated Premises Supervisor in respect of Hennessey Late Lounge Bar, 2 New Road, Brixham be refused.

Reason for Decision:

Having carefully considered all the oral and written Representations, Members resolved unanimously to refuse the transfer of both Premises Licence to Mr Hennessey and to specify him as the Designated Premises Supervisor of those Premises in turn, as they could not be satisfied on the evidence before them, that the premises operations would be compliant with the conditions of its licence and that the Licensing Objectives would be promoted.

In coming to that decision, Members noted that Mr Hennessey had agreed for all four applications to be heard at the same time and that he did not wish to make any comment on these applications.

On hearing the submissions from the Police's legal representative, in simply wishing Members to consider that which they had heard in respect of Mr Hennessey's management of Hennessey Cocktails, 2 King Street, Brixham and; if Members could not be satisfied that Mr Hennessey was suitable to hold that premises licence, how could they be satisfied to grant these applications which were for later terminal hours and would naturally require firmer control.

Noting that these were separate applications and that due regard was needed to be given to each one in turn, Members determined that an outright refusal in respect of each application was both appropriate and proportionate, for the reasons given in their decision for the revocation of Premises Licence held by Mr Hennessey, in respect of Hennessey Cocktails, 2 King Street Brixham and; in the absence of any submissions by Mr Hennessey in respect of these applications to the contrary, Members found no reason to depart from their findings of Mr Hennessey's inability, unsuitability and apparent unwillingness to operate a licensed premises in a responsible manner.

13. Licensing Act 2003 – An application for a Variation to a Premises Licence to Specify an Individual as the Hennessey Sports Bar, Parkham Road, Brixham, Devon, TQ5 9BU

Members considered an application for a variation to specify an individual as the Designated Premises Supervisor at Hennessey Sports Bar, Parkham Road, Brixham, TQ5 9BU.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation objecting to the transfer on the grounds of 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'.	27 May 2021

Oral Representations received from:

Name	Details
Police	The Police Representative presented their objection to the application and responded to Members questions.
Applicant	The Applicant presented their application and responded to Members questions.

Decision:

That the application for a variation of the Premises Licence to specify Mr Hennessey as the Designated Premises Supervisor in respect of Hennessey Sports Bar, Parkham Road, Brixham be refused.

Reason for Decision:

Having carefully considered all the oral and written Representations, Members resolved unanimously to refuse the transfer of both Premises Licence to Mr Hennessey and to specify him as the Designated Premises Supervisor of those Premises in turn, as they could not be satisfied on the evidence before them, that the premises operations would be compliant with the conditions of its licence and that the Licensing Objectives would be promoted.

In coming to that decision, Members noted that Mr Hennessey had agreed for all four applications to be heard at the same time and that he did not wish to make any comment on these applications.

On hearing the submissions from the Police's legal representative, in simply wishing Members to consider that which they had heard in respect of Mr Hennessey's management of Hennessey Cocktails, 2 King Street, Brixham and; if Members could not be satisfied that Mr Hennessey was suitable to hold that premises licence, how could they be satisfied to grant these applications which were for later terminal hours and would naturally require firmer control.

Noting that these were separate applications and that due regard was needed to be given to each one in turn, Members determined that an outright refusal in respect of each application was both appropriate and proportionate, for the reasons given in their decision for the revocation of Premises Licence held by Mr Hennessey, in respect of Hennessey Cocktails, 2 King Street Brixham and; in the absence of any submissions by Mr Hennessey in respect of these applications to the contrary, Members found no reason to depart from their findings of Mr Hennessey's inability, unsuitability and apparent unwillingness to operate a licensed premises in a responsible manner.

Chairman/woman