



## Minutes of the Licensing Sub-Committee

9 November 2017

**-: Present :-**

Councillors Ellery, Pentney, Thomas (J) and Doggett

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### 63. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

### 64. Apologies

It was reported that the membership for item 68 had been amended for this meeting by including Councillor Doggett instead of Councillor Ellery.

### 65. Minutes

The Minutes of the meeting of the Sub-Committee held on 27 July 2017 were confirmed as a correct record and signed by the Chairman.

### 66. Exclusion of Press and Public

Prior to consideration of the item in Minute 67 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Scheduled 12A of the Local Government Act 1972 (as amended).

### 67. The Globe Inn, 131 Winner Street, Paignton, Devon, TQ3 3BP

Members considered a report on an application for a review of a Premises Licence in respect of The Globe Inn, 131 Winner Street, Paignton.

Written Representations received from:

| Name                 | Details   | Date of Representation |
|----------------------|---|------------------------|
| Applicant            | Application setting out reasons for the application for review.   | 17 October 2017        |
| Public Protection    | Representation providing a history of the Premises and proposing conditions should the Licence be modified. | 31 October 2017        |
| Member of the Public | Representation supporting the application for Review.   | 1 November 2017        |

Additional Information:

At the Hearing, the Respondent requested an extension to the normal allowance of 10 minutes to present the application. The Chairman agreed to a total of 15 minutes.

Oral Representations received from:

| Name              | Details   |
|-------------------|---|
| Applicant         | The Applicant presented their application and responded to Members questions.   |
| Public Protection | The Public Protection Officer outlined their representation and responded to Members questions.   |
| Respondent        | The Respondent provided details of the steps they would be taking to address the concerns raised by the Applicant and Public Protection Officer and responded to Members questions. |

### Decision

That the Premises Licence in respect of The Globe Inn, 131 Winner Street, Paignton shall be suspended until the 31 January 2018 and will be subject thereafter to the following additional conditions:

- i) The exemptions under the Live Music Act 2012 shall be repealed in respect of these premises;
- ii) The Premises Licence Holder shall submit by 27 November 2017 a new plan of the premises which also clearly defines the licensable outside area, as proposed and agreed;
- iii) All amplified live and recorded music shall be played through a noise limiter;
- iv) The noise limiter shall be set at a level agreed by the Licensing Authority;
- v) The noise limiter shall be kept in a tamper proof container in a location where there is no public access;
- vi) A secure gate shall be in place to prevent unauthorised access to the premises licensable outside area;
- vii) The licensable outside area shall cease to be used by patrons after 8pm; and
- viii) A CCTV camera shall be located to monitor the outside licensable area by staff from within the premises main bar area.

### Reasons for Decision

Having carefully considered all the written and oral Representations, Members resolved to suspend the Premises Licence with the agreement of the Respondents, as they were satisfied in the circumstances that the suspension was

appropriate and proportionate, given the long and troubled history of this premises.

In doing so, Members were confident that the suspension would allow the Premises Licence Holders sufficient time to refurbish the premises, maximise on the opportunity for a cultural change and to allow the premises time to distance itself from its own history which ensured that the premises future operation would promote the Licensing Objectives.

Members determined that the additional conditions should alleviate the concerns raised by the Responsible Authorities and those of nearby residents, who lives in their opinion on the evidence before them, had been detrimentally effected by the historical operation of these premises.

In concluding, Members were reassured by the Premises Licence Holders proposed future management and operation of this premise, given their considerable experience in operating similar challenging premises, their commitment to relocate from out of area and to financially invest further in to the premises to ensure that the premises would be managed in a responsible manner going forward.

#### **68. Adjournment**

At this juncture the meeting was adjourned until 2.00 pm on Thursday 9 November 2017.

#### **69. Election of Chairman/woman**

Councillor Doggett was elected as Chairman for the adjourned meeting.

#### **70. Apologies**

It was reported that the membership for item 71 had been amended for this meeting by including Councillor Doggett instead of Councillor Thomas (J).

#### **71. Torbay Court Hotel, Steartfield Road, Paignton**

Members considered a report on an application for review of a Premises Licence in respect of Torbay Court Hotel, Steartfield Road, Paignton.

Written Representations received from:

| Name                 | Details  | Date of Representation |
|----------------------|--|------------------------|
| Applicant            | Application for a Review of a Premises Licence.                                    | 14 September 2017      |
| Public Protection    | Representation in support of the application for a Review of the Premises Licence. | 12 October 2017        |
| Member of the Public | Representation in support of the application for a Review of the Premises Licence. | Undated                |

## Additional Information:

Prior to the Hearing the Respondent's Representative provided additional information which was circulated to Members and Interested Parties.

During the hearing it became apparent that the applicant required an extension of time for their oral submissions, the extension of time was granted to all Interested Parties.

## Oral Representations received from:

| Name                      | Details   |
|---------------------------|---|
| Applicant                 | The Applicant outlined the reasons for the application for a Review of a Premises Licence and responded to Members questions.   |
| Public Protection Officer | The Public Protection Officer outlined his support for the application for a Review of a Premises Licence, played some audio clips recorded via the 'noise app' and responded to Members questions. |
| Member of the Public      | A Member of the Public outlined their support for the application for a Review of a Premises Licence and responded to Members questions.  |
| Respondents Solicitor     | The Respondents Solicitor asked questions of the Designated Premises Supervisor.  |

**Decision**

That the Premises Licence in respect of The Torbay Hotel, Steartfield Road, Paignton be amended to include the following additional conditions:

- i) The exemptions under the Live Music Act 2012 shall be repealed in respect of these premises;
- ii) All amplified live and recorded music shall be played through a noise limiter;
- iii) The noise limiter shall be set at a level agreed by the Licensing Authority;
- iv) The noise limiter shall be kept in a tamper proof container in a location where there is no public access;
- v) Any adjustments to the noise limiters level shall only be made in consultation with the Licensing Authority;
- vi) The premises shall have an in-house PA system or something similar to ensure that the agreed level set on the noise limiter is maintained;
- vii) All entertainers and performers using amplified equipment must use the premises in-house PA system or something similar to ensure that the agreed levels set on the noise limiter are maintained;

- viii) A suitable and sufficient ventilation system must be installed and maintained in the areas of the premises where regulated entertainment takes place by 31 May 2018;
- ix) There shall be no more than 6 persons associated with the Premises being permitted in the designated smoking area after 8 pm;
- x) Suitable and sufficient size signage agreed by the Licensing Authority shall be displayed in prominent positions within the Premises and its outside areas to remind guests to respect neighbours and keep noise to a minimum.

### **Reasons for Decision**

Having carefully considered all the written and oral Representations, Members resolved to modify the Premises Licence having been satisfied that the premises operations were undermining the Licensing Objective 'The Prevention of Public Nuisance' and causing a nuisance to nearby residents.

In coming to that decision, Members were alarmed by the Designated Premises Supervisor (DPS) and the Premises Licence Holder's (PLH) Legal Representative impervious response to the concerns raised over a number of years by members of the public who live in the immediate vicinity and that of the Licensing Authority's Public Protection Officer, regardless of the written Representations and oral submissions of those present at the hearing and being presented with audio clips played by the Public Protection Officer of which the majority were taken from within the homes of three nearby residents.

In listening to these clips, Members noted that they could clearly hear exact numbers being called by a bingo caller and words of songs being played from within the premises and therefore in their opinion, determined that the noise emanating from these premises was having a detrimental impact on nearby residents so as to cause them a nuisance.

Despite being questioned in regards to this evidence and its effects, Members were seriously concerned as to the DPS's future ability to operate these premises in a responsible manner which ensured that the Licensing Objective, 'The Prevention of Public Nuisance' was promoted, given her continued opinion that there was no public nuisance and even if there was, she was not aware of this. This Members determined fell well below the standard reasonably expected by them of someone in a position of such authority.

Members resolved that the DPS's attitude and approach to the noise complaints was dismissive and irresponsible and on the evidence before them, were satisfied that the premises were aware of the historical and ongoing noise outbreak from the premises and its effects but had chosen not to address these, due to the perceived cost implications.

By the DPS's own written and oral submission, residents' concerns had been brought to her attention and as a result, she convened a meeting on the 2<sup>nd</sup> July 2016 in an attempt to resolve these. Members further noted the number of times complaints were raised directly with the premises and the prolonged period of this

by the person who had called the Review and others and that of the Licensing Authority's Public Protection Officer who had met with the DPS on a number of occasions following their receipt of noise complaints from nearby residents and had given advice and warnings to the premises in respect of noise outbreak. This was in addition to the findings of the Private Investigators report which was commissioned by the PLH and clearly showed other residents in the adjoining roads who he had spoken to could hear noise emanating from these premises, although they had chosen not to complain.

Notwithstanding that these premises were exempt under the Live Music Act 2012, Members noted the oral submission of the DPS that she was not aware of this and had continued to operate the premises in compliance with the conditions of the Premises Licence. This coupled with the premises written manual at point 6 under the heading 'Advice and Guidance which states that 'All windows and doors must be kept closed during all entertainment, regular sound checks around the outside of the building must be made to ensure no unacceptable noise outbreak and recorded should any action need be taken' and 'During any events using a Temporary Event Notice sound checks must be carried out every hour and logged on the events log', which too were submitted to have been complied with, resulted in Members determining that such action had not been undertaken effectively, if at all, given the evidence before them and the absence of sight of a record or events log.

In noting that the DPS and the Premises Legal Representative agreed to all of the conditions put forward, except to that of installing a PA system or something of a similar nature, Members resolved that without such a condition, a noise limiter would be ineffective and noise nuisance would continue to emanate from these premises. In their opinion and experience, Members resolved that installing such a system where the premises was in such close proximity to nearby residents was an appropriate and proportionate condition to ensure that 'The Prevention of Public Nuisance' Licensing Objective would be promoted, given the evidence before them.

In line with its Statement of Principles, Members gave careful consideration to removing and/or limiting licensable activities at these premises due to the close proximity of residential premises and the removal of the DPS but resolved on this occasion that the proposed conditions which were agreed in majority should alleviate the concerns raised by members of the public and the Responsible Authority.

Should issues of concern continue to arise as a result of this decision, Members would welcome a further Review of this Premises Licence so that a decision may be taken to address these.