



Minutes of the Licensing Sub-Committee

31 May 2012

-: Present :-

Councillors Addis, Ellery and Doggett

1. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

2. Minutes

The Minutes of the meeting of the Sub-Committee held on 3 May 2012 and 10 May 2012 were confirmed as a correct record and signed by the Chairman.

3. Urgent Items

To consider any other items that the Chairman decides are urgent.

4. Application for an Expedited Review of a Premise Licence under Section 53A of the Licensing Act 2003 under Urgent Items

Details of Application – Under Urgent Items:

An Application for an Expedited Review of a Premise Licence under Section 53A of the Licensing Act 2003 (premises associated with serious crime and disorder) in respect of Mambo/The Beach Hut, 7 The Strand, Torquay TQ1 2AA.

The Premises do fall within the Cumulative Impact Area.

Written Representation received from:

Name	Details	Date of Representation
The Police	Application for an Expedited Review of the Premises Licence relating to Mambo's/The Beach Hut, 7 The Strand, Torquay TQ1 2AA.	29 May 2012

The Respondent and the Applicant Legal Representatives addressed the Chairman at the beginning of the meeting to request a delay to the start of the hearing to allow them an opportunity to discuss what actions the Respondent had taken since the serving of the s53A application and to allow the Police's Legal Representative to take further instructions in order to narrow the issues for consideration.

The Chairman agreed to allow a recess of thirty minutes.

The Chairman of the Licensing Sub-Committee reconvened the Meeting. The Legal Representative for the Respondent, asked to address the Committee on a preliminary matter concerning the application signed by Superintendent James Nye, and the correct criteria being applied in the serving of this type of application. The Applicant's Legal Representative proposed that this matter should not proceed, as the application was flawed due to an inaccuracy in the Applicant's Notes for guidance. He proposed that an ambiguity had arisen and that Members could not be satisfied without the presence of the Superintendent himself to confirm his mindset at the time of signing this application.

The Legal Representative for the Police, accepted that the Notes for Guidance were printed incorrectly but that it was no more than a clerical error and the test actually applied by the Superintendent was that of a more stringent one.

The Committee withdrew to deliberate this point before proceeding.

Decision:

Having carefully considered Representations by both parties, Members resolved that the Superintendents attendance was required before they can proceed to clarify the intention of the Application.

Additional Information:

The Applicant and the Respondent were asked to await the arrival of Superintendent Nye and hoped that they would afford the Committee reasonable time to wait as was afforded to them earlier before the start and advised that the Meeting would reconvene at 11.30 a.m.

The Chairman re-opened the Meeting at 11.30 a.m. with the Superintendent in attendance.

The Applicant's Legal Representative was asked to proceed in clarifying the preliminary matter raised by the Respondent. In doing so, the Superintendent was asked to clarify his mindset at the time of signing the application and had he applied the correct test. Clarification was given that the correct test had been applied by him in connection with Operation Ambassador and that the contents of the Notes for guidance was an oversight on his behalf but that it had not caused him to apply the wrong test.

The Respondent's Legal Representative questioned the Superintendent on the process in which the application had been signed and why the Notes for guidance detailed the wrong age. The Superintendent confirmed that this was an oversight but that he had applied the correct test in signing the application.

Brief summing up of this matter was made by both the Respondent and the Applicant's Legal Representatives.

The Committee subsequently withdrew to deliberate on the Representative's submissions.

Decision:

Having heard further Representations and Submissions from the Superintendent, Members are satisfied that although an oversight of the submitted documents had occurred, the mindset the Superintendent when making the application, was that of an individual attaining the age of 21 years given the nature of the operation that has been undertaken by the Police in the last 6-8 weeks.

Members resolved that the Superintendent presented as a credible Witness and had no reason to disbelieve his intentions when signing the application.

In light of this the Members agreed unanimously this Application is valid.

The Meeting was reconvened.

Request to extend the time for Oral Representations:

The Chairman agreed to the request from the Applicant and the Respondent's Legal Advisors to allow 30 minutes for Oral Representations.

Oral Representations Received from:

Name:	Details:
The Applicant's Legal Representative	The Applicant's Legal Representative outlined the Application for an Expedited Review and responded to Members questions.
The Respondent's Legal Representative	The Respondent's Legal Representative addressed the issues raised by the Applicant and responded to Members questions.

Respondent's response to Representation:

The Respondent's Legal Representative advised what interim steps had been taken to address the Representation from the Police. An Independent Report had been commissioned and was due to later this week which the Police were aware of. A new CCTV System was being installed and would be fully operational later today. Plastic glasses had been ordered and were expected to be in the Premises by this

evening. A cloak room was going to be available at weekends to address the number of theft incidents.

Additional information:

Members asked the Respondent to provide confirmation of the proposed interim steps undertaken.

With permission from the Chairman, a letter from the CCTV Company and an e-mail chain about the delivery of glasses was circulated to Members.

The Respondent advised that the CCTV would be completed by 3pm today and the e-mails concerning the glasses stated that there should be 3 deliveries, two of which they were awaiting and confirmed that one delivery had already been received.

The Committee requested submissions from the Respondent regarding the calling of an ambulance and/or the Police and keeping accurate incident records.

Decision:

Following the Section 53A Summary Review application by the Police, Members have resolved that the Premises Licence be suspended with immediate effect until 25 June 2012, whereby a Review Hearing would have been heard on the 22 June 2012, as in accordance with the Licensing Act 2003 provision.

Reason for Decision:

Having carefully considered all oral and written Representations, Members have serious concerns about the issues that have occurred at this Premise, as identified by the Police in their Application.

Members noted on the evidence before them that in their opinion three of the four Licensing Objectives have been undermined by the serious incidents reported in the Polices Application namely:

The Prevention of Crime and Disorder
The Promotion of Public Safety
The Protection of Children from Harm

and this had caused them grave concern.

Members further noted at the time of making this decision the proposed measures put forward by the Respondent did not go far enough to address the risk of further serious disorder and that steps already taken had not yet been fully implemented. As such, their concerns were not alleviated, given the serious nature of the incidents that have already occurred at this Premise.

In concluding, Members felt that the only interim step appropriate and proportionate to ensure that the Licensing Objectives are promoted, is for the Premise Licence to

be suspended with immediate effect until a decision of the Licensing Committee at a Full Review Hearing can be determined.

5. Licensing Act 2003 – An application for a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor of Rhythm and Blues, 12-14 The Terrace, Torquay

The Committee were advised by the Senior Licensing Officer that the item had been withdrawn. This was due to the Police withdrawing their Representation as a new application specifying a different Designated Premises Supervisor had been accepted by the Licensing Department.

Chairman