



Minutes of the Licensing Sub-Committee

9 July 2015

-: Present :-

Councillors Doggett, Manning and Thomas (D)

(Also in attendance: Councillors Brooks, Cunningham, Stubley and Sykes)

10. Election of Chairman/woman

Councillor Doggett was elected as Chairman for the meeting.

11. Minutes

The Minutes of the meeting of the Sub-Committee held on 25 June 2015 were confirmed as a correct record and signed by the Chairman.

12. Licensing Act 2003 – An application for a Review of a Premises Licence for Shiraz, 2 Vaughan Parade, Torquay TQ2 5EG

Members considered a report on an application for a Review of a Premises in respect of Licence for Shiraz, 2 Vaughan Parade, Torquay TQ2 5EG.

Members noted that the application had been properly made, and that the Applicant is a Responsible Authority and that the administrative requirements of Section 51(3)(a) and (b) have been met and that the Representation has not been subsequently withdrawn and is not vexatious, frivolous or repetitious.

The Premises do fall within the Culmulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Public Protection	Supporting information and additional evidence in relation to the Licensing Objective 'The Prevention of Public Nuisance.'	21 May 2015
Police	Representation in relation of Licensing Objective 'The Prevention of Crime and Disorder,' including	4 June 2015

	Statements from Police Officers, Incident Log, photographic evidence and correspondence.	
Interested Party	Licensing Objective 'The Prevention of Public Nuisance.'	6 June 2015
Shiraz	Representation in response to Review, including conditions agreed between the Respondent and the Council's Licensing and Public Protection Team.	16 June 2015

Members noted there were no Representations from any other Responsible Authority or any other Interested Party.

The Chairman agreed to the request from the Applicant and the Respondent's Legal Advisor to allow 20 minutes for Oral Representations. The Chairman advised that the same would be permitted to each party present.

The Senior Licensing Officer advised Members that the Interested Party had sent a note advising that they wished to withdraw their Written Representation, as per the submitted report. The Committee noted this request.

Oral Representations received from:

Name	Details
The Applicant	The Applicant outlined their case, as set out in their submitted documents and responded to Members questions.
Police	The Police Representative outlined their Representation and responded to Members questions.
The Respondent's Legal Representative	The Respondent's Legal Representative outlined their case, responded to the submissions made by each Party and responded to Members questions.

The Public Protection Officer showed a short video clip to Members of a singer performing in the Premises outside of the licensed area.

Respondent's response to Representations:

The Respondent's Legal Representative explained that the Premise Licence Holder was very experienced and had run businesses on the harbour side for 25 years and was shocked by having a Review of the Premises Licence.

There were no issues with Crime and Disorder, even though the Premise is situated in the Culmulative Impact Area.

The Respondent felt there was an issue with fairness, as most venues in the location play music and felt that this premise had been singled out.

The Respondent's Legal Representative confirmed that he had met with the Public Protection Officer prior to the hearing and had agreed seven conditions which should alleviate the issues of concern which have been raised by the Review.

The Respondent's Legal Representative requested Members view a selection of video clips which showed surrounding licensed premises who continue to play live music and felt that in fairness this video should be allowed.

Having resolved that further video footage would be permitted, Members did on advice from the Council's Senior Solicitor, exclude the Press and Public from the hearing at 11.10am, as the video footage related to identifiable premises that were not subject to this application. The Respondent, Respondent's Legal Advisor, Police Licensing Officer and Public Protection Officer remained to view the video, along with the Members, the Council's Senior Solicitor and Committee Clerk.

The Meeting reconvened at 11.20 a.m. On advice from the Council's Senior Solicitor, no questions were asked by Members on that viewed by them in the video footage, as the Premises Licence Holders of the premises identified were not present to respond and that the matter before them today was in respect of the premises known as Shiraz.

Decision:

In response to the application for a Review of a Premises Licence for Shiraz, 2 Vaughan Parade, Torquay TQ2 5EG, Members resolved to modify the premises licence by adding the following seven conditions, as agreed between Torbay Council's Licensing and Public Protection Team and the Respondent and his Legal Representative:

1. Live amplified music is prohibited in the premises outside licensed area, as shown on the premises plan at all times the premises are authorised for the sale of alcohol.
2. Recorded amplified music is prohibited in the premises outside licensed area, as shown on the premises pan at all times the premises are authorised for the sale of alcohol.
3. There shall be no exterior sited speakers on the premises outside licensed area or speakers situated in the premises doorways and lobbies.
4. Performances of live and recorded music in the internal licensed area must at all times be played through a noise limiter which is to be set and maintained at a level agreed with Torbay Council's Public Protection Team.

5. The noise limiter must be installed and the levels agreed by an Officer of Torbay Council's Licensing and Public Protection Team within 4 weeks of the review hearing.
6. No changes shall be made to the public address system or the noise limiter without prior written permission of Torbay Council's Licensing and Public Protection Team.
7. The premises boundary of the outside licensed area must be demarcated with a suitable and sustainable barrier when in use. The style and format of the barrier to be agreed with Devon and Cornwall Police, Torbay Council's Highways Department and Torbay Council's Licensing and Public Protection Team. Barriers to be installed within 6 weeks of the Review Hearing.

In addition, Members resolved to remove Mr Mohammed Javadi as the Designated Premises Supervisor of the premises known as Shiraz at 2 Vaughan Parade, Torquay, with immediate effect.

Reason for Decision:

Having carefully considered all the written and oral Representations, Members were satisfied on the evidence before them that the seven conditions were appropriate and would seek to address the concerns raised by the Responsible Authorities and in doing so, the Licensing Objectives would be promoted. However, they could not be satisfied that Mr Javadi would comply with these conditions, given the evidence before them and therefore felt it appropriate to remove him as the Designated Premises Supervisor for the following reasons:

The Responsible Authorities have over a number of years and on numerous occasions found cause to warn and advise Mr Javadi both in person and in writing of his failures to comply with the conditions of his premises licence and his Pavement Cafe Permit, as issued by Torbay Council. Some of which Members noted date back four years ago and are for the same complaints in which Mr Javadi finds himself before them today for a Review of his premises licence. This clearly demonstrated to Members that Mr Javadi has failed to act or take seriously the concerns raised by the Responsible Authorities and to them this was a reflection of poor management. As such, they resolved that in their opinion Mr Javadi fell well below that reasonably expected by them of a person who holds the position of a Designated Premises Supervisor, especially where that premises is situated within the Council's Cumulative Impact Area.

Whilst Members noted the assurances given by Mr Javadi in that he promised and would try his best to comply with the new conditions, they noted the submissions from Officers of the Responsible Authorities in that Mr Javadi was very amicable but it appeared to them that he lacked responsibility, seems dismissive of the rules and that to do his best was not reassuring, as his best previously had not been good enough. As such and on the evidence before them, Members resolved that Mr Javadi presented a real risk of continuing to fail to comply with the conditions of

his premises licence and as the Designated Premises Supervisor, they could not be satisfied that he took seriously the responsibility of that role in upholding the Licensing Objectives.

In forming this view, Members had particular regard to the incident on the 19th April 2015 where a Public Protection Officer from Torbay Council visited the premises and spoke directly to Mr Javadi about the volume of the amplified music being played from his premises which was likely to be in breach of the Abatement Notice served on him on the 23 May 2014. Mr Javadi's response was, despite being asked by that Officer to turn off the music immediately and to remove tables and chairs that were outside the permitted Pavement Cafe Permit issued by Torbay Council, to request half an hour to do this. This music continued to be heard by the Public Protection Officer from a complainant's home some 35 minutes after the Officer's initial request.

Members were alarmed at Mr Javadi's response when asked by them what he thought his responsibilities were as a Designated Premises Supervisor and Premises Licence Holder. This response being, that he looked after the business seven days a week and that he promoted tourism in the bay. Whilst this may be his intention, Members had serious concern that Mr Javadi made no mention of upholding the four Licensing Objectives.

Members were also concerned to hear from the Public Protection Officer that despite the Review being called, things are still not correct at the premises and that the Officer had found cause to speak to Mr Javadi during the interim period.

Members noted Mr Javadi and his Legal Representatives' submission in respect of fairness and the operation of other licensed premises in the area but resolved that two wrongs do not make a right and that in their opinion on the evidence before them, the necessity of a Review had rightly been called which on the submission of the Public Protection Officer, had not been done so lightly but was as a result of years of trying to work with Mr Javadi.

Members noted Mr Javadi's submission that he had facilitated a third party's request for live entertainment but resolved that in whatever circumstances Mr Javadi believed he was carrying out that request, this did not absolve his responsibility to comply with the conditions of his premises licence and that he should have either refused that request or obtained the required permit or licence to do so.

In concluding, Members did have regard to suspending the premises licence for a period of up to three months but resolved that to modify the premises licence as they have and to remove Mr Javadi as the Designated Premises Supervisor was both proportionate and appropriate having carefully considered all the written and oral Representations before them.