



Minutes of the Licensing Sub-Committee

25 October 2018

-: Present :-

Councillors Thomas (J), Thomas (D) and Stocks

(Also in attendance: Councillor Mills)

29. Election of Chairman/woman

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

30. Apologies

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

31. Churston Court Hotel, Churston Ferrers, Brixham TQ5 OJE

Members considered a report on an application for a review of a Premises Licence in respect of Churston Court Hotel, Churston Ferrers, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Public Protection Officer	Representation in support of the application for a Review of the Premises Licences.	27 September 2018
Member of the Public	Representation in support of the application for a Review of the Premises Licence.	31 August 2018
Member of the Public	Representation in support of the application for a Review of the Premises Licence.	11 September 2018
Member of the Public	Representation in support of the application for a Review of the Premises Licence.	19 September 2018
Member of the Public	Representation in support of the application for a Review of the Premises Licence.	2 September 2018
Member of the Public	Representation in support of the application for a Review of the Premises Licence.	3 September 2018
Member of the Public	Representation in support of the application for a Review of the	5 September 2018

Public	responded to Members questions.
Member of the Public	A Member of the Public outlined their representation and responded to Members questions.
Respondent and Associate	The Respondent and his Associate addressed Members and responded to the written and oral representations and Members questions.

Decision:

That the Premises Licence in respect of Churston Court Hotel, Churston Ferrers, Brixham be modified as follows:

The exemptions under the Live Music Act 2012 be repealed in respect of these premises.

Reasons for Decision

Having carefully considered all the written and oral Representations, Members resolved to modify the premises Licence, as they could not be satisfied on the evidence before them that without this modification, the Premises Licence Holder (PLH) would promote the Licensing Objectives. Namely; Public Safety and the Prevention of Public Nuisance.

In coming to that decision, Members had regard to the detrimental effects the premises activities were having on a significant number of residents who lived in close proximity to the premises and that residents and the Responsible Authority had brought these effects to the attention of employees at the premises and the PLH; the absence of any mitigating measures being put in place by the PLH, despite knowing what effect the continuance of these activities would have on nearby residents; the chronology of events outlined by the Responsible Authority's Public Protection Officer in his written and oral representation which demonstrated that against his advice, warning and the threat of a Noise Abatement Notice being served, the PLH held further events in complete disregard of its nearby residents; the sound clips played by the Responsible Authority's Public Protection Officer which Members determined, despite submissions to the contrary, were taken from within the homes, gardens and boundaries of residential properties and that these clips were unequivocal evidence that the premises activities were undermining 'the prevention of public nuisance' licensing objective and in turn, were preventing residents' reasonable and peaceful enjoyment of their homes.

In addition, Members has regard to the oral submission of the PLH in outlining his involvement and position as a chairman when carrying out similar events within the Torbay area and were at a loss as to why the PLH had not applied the same level of regard and Responsible Authority engagement to events held at his own premises. Had he done so, Members were of the opinion that the level of anxiety, upset and distress caused, as submitted by the residents in their written and oral representation, may have been avoided.

Furthermore, Members were alarmed to learn that door stewards employed by the PLH during a two day event held at the premises had acted under the instruction

of the event organiser and therefore under the authority of the PLH to restrict members of the public's use of the highway leading to the premises and residents access and egress to their homes, leading residents and most likely members of the public to believe that a road closure was in place when in fact, confirmation sought by the Public Protection Officer from the Authority's Highways Department established that no application had been submitted by the PLH and subsequently no authorisation was in place to permit such restrictions. This in Members opinion was wholly misleading and that the PLH would have known this.

Further significant factors in determining to remove the exemption under the Live Music Act, were the submissions by the event organiser of complete denial that the noise clips played at the hearing were from events being held at the premises. Members found this statement to be disingenuous and demonstrated a complete disregard to the integrity and suffering of those residents who had complained and were living within 50 to 250 meters radius of the premises which in turn, presented a further risk of 'the prevention of public nuisance' licensing objective being undermined; that despite being advised by the Responsible Authority's Public Protection Officer to not host any further live music events on the premises outside area until mitigating measures had been put in place and proven to work, the PLH went ahead with two further events which were after the date the Licensing Authority had received the Review application which the PLH would have been aware of, this in Members opinion not only undermined the licensing objectives but also fell well below the standard reasonably expected by them of a responsible PLH; and despite responding on the 30th August 2018 to the Licensing Authority's Notice dated 24th August 2018, where the PLH set out what measures he intended to take, other than writing to the residents on the 31st August 2018 in what some saw to be a half-hearted apology, the PLH has not put any other mitigating measures in place. It was noted by Members that the PLH, through the event organiser, had sought to engage a specific noise consultant who was no longer trading but in Members opinion, to continue to host such events without first putting in place appropriate mitigating measures was in their opinion, wholly irresponsible when the PLH knew that such events were having a detrimental effect on nearby residents and would have been undermining licensing objectives.

Notwithstanding the PLH eventual submission during the hearing that they had got things wrong and in the knowledge that the premises licence does not currently authorise live or recorded music in its outside areas, Members gave careful consideration to what if any conditions could be added to the premises licence, as an alternative to removing the exemption sought by the Responsible Authority. In doing so and in consideration of its Statement of Principles with regards to restricting licensable activities after 11pm where premises are in close proximity to residential premises, Members could not be certain what conditions would be appropriate to alleviate the detrimental effect and to promote the licensing objectives, as the PLH has not produced a noise management plan or engaged a noise consultant to present a findings report and therefore resolved that it would be remiss of them to determine conditions which could potentially be costly to the PLH, not achieve the objectives of preventing further public nuisance and may not be in keeping with the premises intended future operations.

Notwithstanding this, Members unanimously resolved that they had no confidence in the PLH complying with additional conditions, given his actions and inactions to date which were outlined in the report before them and that which they heard from residents and the Responsible Authority who they found to be honest and credible.

In concluding, Members gave careful consideration to removing Mr Smith as the Designated Premises Supervisor but resolved that his failings were limited to activities taking place in the premises outside areas and that in removing the exemption under the Live Music Act, the risk to the stated licensing objectives being further undermined should be eradicated and therefore this additional step would in their opinion, have been superfluous.

Chairman/woman
