

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

10.00am 25 APRIL 2014

COMMITTEE ROOM 3, BRIGHTON TOWN HALL

MINUTES

Present: Councillors: Deane, Jones and Simson

Officers: Jean Cranford, Licensing Manager; Mark Savage-Brookes, Licensing Officer; Rebecca Sidell Lawyer and Penny Jennings, Democratic Services Officer

PART ONE

78. TO APPOINT A CHAIR FOR THE MEETING

78.1 **RESOLVED** - Councillor Deane was appointed Chair for the meeting.

79. PROCEDURAL BUSINESS

79a Declaration of Substitutes

79.1 There were none.

79b Declarations of Interest

79.2 There were none.

79c Exclusion of the Press and Public

79.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

79.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

80. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003, GOLDEN GRILL, 9 WESTERN ROAD, HOVE

- 80.1 The Panel considered a report of the Director of Public Health seeking review of the Premises Licence of the Golden Grill, 9 Western Road, Hove.
- 80.2 Mr Savill Barrister at Law and Sergeant Morgan were in attendance on behalf of the Police. Councillor Mac Cafferty was in attendance in his capacity as a Ward Councillor in support of his own submission and those made by local residents' associations. The Licence Holder, Ms Hadavi was in attendance accompanied by her adviser Mr Simmonds who spoke on her behalf.

Introduction by the Licensing Officer

- 80.3 The Licensing Officer, Mr Savage-Brookes confirmed that the Panel were being requested to consider an application for review which had been made by Sussex Police. The Police were seeking a review on the grounds of crime and disorder and prevention of public nuisance. Further evidence to support the application had been submitted to the Licensing Authority office and was attached within the revised Appendix E which had also been circulated.
- 80.4 Sussex Police had initially recommended revocation of the licence. However, a Memorandum of Agreement, signed by both the premises licence holder and Sussex Police, had been submitted subsequently setting out conditions which had it been agreed by both parties could be applied to the licence, including a period of suspension.
- 80.5 Representations had been received in support of the original submission from two Local Resident Associations and from Cllr Mac Cafferty one of the Local Ward Councillors who had raised concerns regarding crime and disorder, the prevention of public nuisance and public safety.
- 80.6 The Licensing Officer confirmed that the available to the licensing authority when deciding on any action for this application which will conclude this hearing were:
- 80.6 The Licensing Officer confirmed that the options available to the licensing authority when deciding on any action for this application which will conclude this hearing were:
- the modification of the conditions of the premises licence (including the times that licensable activities can take place)
 - the suspension of the licence for a period not exceeding 3 months;
 - revocation of the licence;
 - or they could decide to do nothing.

Submission by the Police

- 80.7 Mr Savill, Barrister at Law representing the Police explained that he had little to add to the information contained in the submitted paperwork which he considered was self explanatory, indicating however that he was happy to answer any questions that the Panel or the other interested parties might have. He confirmed that the Police had been minded to recommend that the licence be revoked in view of the fact that the premises had been trading outside its permitted hours, this constituted a criminal offence,

fundamentally flouting conditions of the licence. Conditions were added to a licence in the expectation that they would be observed. Notwithstanding this, as soon as the licence holder (who had been absent from the premises due to ill health) had become aware of the situation, they had contacted the Police in order to seek to address the situation, discussions had taken place and they had agreed to enter into the Memorandum of Agreement set out in the circulated agenda papers.

- 80.8 On the basis the Memorandum of Agreement the Police were recommending that the Licence not be revoked as they had no wish to de licence any premises in instances where agreement had been reached to ensure that a premises operated in accordance with its conditions in future. It should be noted however that they would not hesitate to take further action if there were any lapses in relation to the manner in which the premises were run.
- 80.9 Councillor Simson enquired whether revocation had been sought in response to the fact that the premises had been trading beyond its permitted hours or in response to specific incidence of crime and disorder. Mr Savill responded that the two things were linked in that where premises traded beyond their agreed hours that could increase the likelihood of crime and disorder. Thought was given to the hours during which a premises were permitted to operate, if those hours were not respected it could give rise a catalogue of problems.
- 80.10 Councillor Deane, the Chair enquired regarding the proposed period of suspension from Thursday 22 May to 28 May during which time no licensable activities would take place after 23:00 hours and it was explained that this equated to expiry of the period during which an appeal could be lodged.

Submission by the Ward Councillor

- 80.11 Councillor Mac Cafferty the Chair referred to the impact on residents caused by licensed premises, particularly those located in Western Road, all of the side streets radiating from it were essentially residential in character. If premises did not comply with their licence conditions this had a very negative impact. The Cumulative Impact Area (CIA) had been extended in response to the difficulties experienced by residents in his ward and a gate had recently been added to the top end of Farman Street near to the premises in response to the detrimental impact on residents of antisocial behaviour emanating from Western Road.

Submission on Behalf of the Applicant

- 80.12 Mr Simmonds spoke on behalf of the applicant stating that Ms Hadavi greatly regretted the situation that had arisen in respect of her premises. As soon as she had become aware of the situation (initial correspondence had been posted to the premises rather than her home address), she had immediately sought to resolve the matter to the satisfaction of the Police. The situation had arisen in consequence of Ms Hadavi suffering ill health which had resulted in her having less day to day involvement at the premises than had previously been the case.
- 80.13 Mr Simmonds assured the Panel that Ms Hadavi was fully aware of the seriousness of the situation and would be taking all necessary steps to seek to ensure that there would

be no recurrence of the breeches which had taken place and thatⁱ she would have a direct “hands on approach” in future. Ms Hadavi lived in the locality herself and appreciated the importance of running her business in a neighbourly way. Mr Simmonds explained that the cost of erecting the gate to Farman Street referred to by Councillor Mac Cafferty had been financed locally and that Ms Hadavi had contributed to its cost. None of the parties wished to add anything to their earlier submissions and as there were no further questions each party then gave their closing statements.

Closing Submissions

- 80.14 In closing the Licensing Officer, Mr Savage–Brookes confirmed that where the licensing authority considered that action was necessary under its statutory powers it could take the following steps:
- modify the conditions of the premises licence (including the times that licensable activities could take place);
 - suspend the licence for a period not exceeding 3 months;
 - revoke the licence
 - decide to do nothing.
- 80.15 If the panel decided to add additional conditions they should be clear, precise and enforceable as penalties for breaching the conditions of a licence were severe. The panel’s decision should be appropriate and proportionate to promote the licensing objectives.
- 80.16 Mr Savill spoke on behalf of the Police and stated that he had nothing to add to his earlier submission other than to re-iterate his earlier comments.
- 80.17 Councillor Mac Cafferty also confirmed that he did not wish to add anything further to his earlier comments. Councillor Deane, the Chair sought confirmation that the arrangements made between the applicant and the Police would be acceptable to him and to local residents. Councillor Mac Cafferty responded that they would be provided they were fully met and complied with.
- 80.18 Mr Simmonds gave his closing submission on behalf of Ms Hadavi stating that she was willing to meet all of the stipulations set out in the Memorandum of Agreement including a period during which the licence would be suspended.
- 80.19 The Panel retired to consider the application, on re-covering the Chair stated that the Panel had carefully considered all the arguments put forward and read all the supporting documents. They had heard evidence from the Police of several breaches of the licence, which had continued despite repeated warnings. These breaches had seriously undermined the licensing objectives relating to public nuisance and crime and disorder. The Panel had also heard evidence from a local ward councillor of the negative impact that this had had on residents over a long period of time. However, the Panel had also heard that the licence holder had worked with the police to rectify the situation, resulting in a Memorandum of Agreement signed by both parties, which also had the stated support of the ward councillor.

80.20 The Panel had therefore decided to agree and endorse the Memorandum of Agreement, so that the conditions detailed within it would be added to the licence. Furthermore, there would be a suspension of the licence from 22-28 May 2014, during which time, no licensable activities will be permitted beyond 23.00hrs. The Panel would like to make it known to the premises licence holder that this was a serious case and that their decision had given the opportunity for the licence holder to continue trading within the terms of her licence and the Licensing Act 2003. Should any further breaches take place, she ran the risk of full revocation.

80.21 **RESOLVED** – That the Panel endorse the Memorandum of Agreement which had been entered into by the applicant with Sussex Police and that these conditions be added to the Licence following a period of suspension of the licence to run between 22-28 May, during which time no licensable activities will be permitted beyond 23.00 hrs.

81. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003, CASBA, 11 WESTERN ROAD, HOVE

81.1 The Panel considered a report of the Director of Public Health requesting that they review the Premises Licence of Casba, 11 Western Road under the provisions of the Licensing Act 2003.

81.2 Mr Savill Barrister at Law and Sergeant Morgan were in attendance on behalf of the Police. Councillor Mac Cafferty was in attendance in his capacity as a Ward Councillor in support of his own submission and those made by local residents' associations. The Licence Holder, Mr Dema was in attendance accompanied by his fiancée Ms Bowden who also spoke on his behalf.

Introduction by the Licensing Officer

81.3 The Licensing Manager Mrs Cranford confirmed that the Panel were being requested to consider an application for review which had been made by Sussex Police. The Police were seeking a review on the grounds of crime and disorder and prevention of public nuisance. Further evidence to support the application was submitted to the Licensing Authority office and was attached within the revised Appendix E which had been circulated.

81.4 Sussex Police had requested revocation of the licence on the grounds that since November 2013 the premises had been observed breaching their permitted hours on five occasions and in view of the grave concerns they had in relation to the licensing objectives in relation to the Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety.

81.5 Three Representations had been received from Interested Parties from two Local Resident Associations, from Councillor Mac Cafferty a Local Ward Councillor for the Brunswick and Adelaide Ward on the grounds of crime and disorder, the prevention of public nuisance and public safety.

81.6 The Licensing Officer confirmed that the powers available to the licensing authority when deciding on any action for this application which will conclude this hearing were:

- the modification of the conditions of the premises licence (including the times that licensable activities can take place)
- the suspension of the licence for a period not exceeding 3 months;
- the revocation of the licence
- or they can decide to do nothing.

81.7 Councillor Deane referred to information contained in the submitted paperwork made reference to food hygiene and other health and safety issues which had been observed and reported on at the premises stating that they fell outside the control of the Licensing regime. It was confirmed that was the case and that a raft of issues had been experienced in relation to operation of the premises.

Submission by the Police

81.8 Mr Savill spoke on behalf of the Police stating that they had grave concerns regarding the premises apparent disregard for the Licensing objectives. The Police contended that the management team of Casba (who were committing a criminal offence on every occasion they traded beyond their permitted hours) were not promoting the licensing objectives, specifically the prevention of crime and disorder and public nuisance. The premises were committing crime under Section 136 of the Licensing Act by repeatedly remaining open and serving hot food and drink after the hours they were licensed for. The premises had been observed serving on five occasions since November 2013. These breaches had continued notwithstanding that advice had been given, this showed a total disregard by the management for their prescribed hours and for promotion of the licensing objectives. The warnings given by the Police were in addition to a formal warning letter from the Council's Licensing Department and further letters sent by the Environmental Protection and Food Safety section which also indicated an irresponsible attitude by the management to their responsibilities in running their premises.

81.9 Mr Savill stated that Sussex Police had given consideration to requesting either that further conditions be added to the licence and or that the existing hours of operation were reduced in order to address their concerns, but did not believe that pursuing any of those options would address the fact that the premises were flagrantly disregarding their existing terminal hour. In this instance the police considered that there was no alternative other than to request that the Panel give serious consideration to revocation of the premises licence. Sussex Police considered that revocation would be an appropriate and proportionate response to the repeated disregard to the hours on the existing licence and the additional public nuisance that was caused in consequence of trading beyond their permitted hours.

81.10 Councillor Deane, the Chair enquired regarding the number of review requests made by the Police and Sergeant Morgan explained that such requests were very rare in fact this was the first such request made for this type of premises which gave an indication of the seriousness of the breaches as far as the Police were concerned. The Police generally sought to work with premises in order to address any issues, regrettably it had not been possible to do so in this instance as there had been no contact from the Premises Licence holder prior to that days meeting. The effective management and supervision of a venue was a key factor in reducing crime and disorder, both within it and outside, this had not been respected in the case of this premises, only one condition had been imposed relating to the time at which the premises were supposed to close,

notwithstanding numerous warnings and advice this condition had repeatedly not been met.

Submission by the Ward Councillor

- 81.11 Councillor Mac Cafferty spoke in his capacity as a Local Ward Councillor also on behalf of the local residents' associations and the Local Action Team stating that both he and his colleague Ward Councillor were aware of problems associated with that part of Western Road and with the problems associated the premises. He echoed the concerns expressed by the Police. It appeared that the premises operators had displayed scant regard for the licensing objectives this represented a major and repeated breach and on that basis he supported the approach that was recommended by the Police. It was very important that all premises in an area operated in accordance with their licence to ensure effective management of the area as a whole.

Submission on Behalf of the Applicant

- 81.12 Mr Dema the premises licence holder was accompanied at the hearing by his fiancée, Ms Bowden who also spoke on his behalf. She explained that she had only become aware of the severity of the situation at the premises very recently, Mr Dema's understanding of English had meant that he failed to realise the severity of the situation, now that he had grasped this measures would be put into place to ensure that he took a much more pro-active involvement in his business in future. Mr Dema explained that he was only twenty three years of age and had only been running the business for a year and wanted the opportunity to improve the situation. He stated that correspondence relating to these breaches had been sent to the premises rather than his home address and in consequence he had not known the full extent of the problem.
- 81.13 Ms Bowden confirmed that was the case and that measures had already been undertaken to address problems at the premises and a number of staff had been let go, he had not had control over staff members and would be visiting the premises more regularly in future. Mr Dema lived nearby and he did not want to alienate local residents, he had also invested heavily in the premises. Mr Dema refuted some of the information contained in the Police reports of incidents at the premises stating that he had not been there when they had taken place.
- 81.14 Councillor Simson enquired regarding the measures that were taken to ensure the identity of staff working in any premises. It was explained that those present were questioned as to their identity. Mr Dema stated that it may have been that his father had been present on those occasions when the Police had visited the premises. In answer to questions, Mr Dema explained that he had taken over the premises when it had become available. His father had worked at the premises for thirteen years and had continued to work there and to oversee the way that it was run on his behalf as well as carrying out other duties. Councillor Deane, the Chair asked whether Mr Dema would be able to ensure that his father would comply with necessary requirements particularly those in relation to the hour at which the premises should close in future. Mr Dema stated that he could not tell his father what to do, but he that although he was still learning the business he would take a greater involvement in future. Ms Bowden also confirmed that she would help to ensure that this was the case.

Closing Submissions

- 81.15 In closing the Licensing Manager, Mrs Cranford confirmed that where the licensing authority considered that action was necessary under its statutory powers it could take the following steps:
- modify the conditions of the premises licence (including the times that licensable activities could take place);
 - suspend the licence for a period not exceeding 3 months;
 - revoke the licence
 - decide to do nothing.
- 81.16 If the panel decided to add additional conditions they should be clear, precise and enforceable as penalties for breaching the conditions of a licence were severe. The panel's decision should be appropriate and proportionate to promote the licensing objectives.
- 81.17 Mr Savill made the closing submission on behalf of the Police stating that the request to revoke a licence for a take away were very rare, the Police always sought where possible to reach agreement with licence holders but in this instance the obfuscation of duties attendant on running a premises of this type had been repeated and advice given ignored. On that basis he considered that there was no option but to recommend that the Panel give serious consideration to revocation.
- 81.18 Councillor Mac Cafferty stated that he had nothing to add to his earlier comments except to re-iterate that he totally supported the approach that had been taken by the Police.
- 81.19 Mr Dema in closing stated that he had not previously understood the seriousness of any problems at the premises but would now try and remedy them.
- 81.20 On returning following the Panel's private deliberations, the Chair, Councillor Deane explained that the Panel had listened carefully to all the submissions made and had studied the documentation. They had heard evidence from the Police of persistent breaches of the licence relating to trading beyond its licensing hours. They had also heard from a local ward councillor of the negative impact of late night public nuisance in the vicinity of the premises.
- 81.21 The Panel considered these breaches to be deliberate in nature and the licence holder had not taken action to deal with the situation despite numerous visits and warnings, leaving the day to day management in the hands of others. The Panel had considered the options available to in response to the review, but in terms of suspension or conditions shared the view of the police that there was no prospect for improvement. The Panel acknowledged the support offered by Mr Dema's fiancée, but nonetheless had little confidence that he had shown the necessary understanding or experience to meet his responsibilities as licence holder.
- 81.22 The Panel therefore concluded that, in order to promote the licensing objectives, they had no option other than to revoke the licence.

- 81.23 **RESOLVED** – That the premises licence of Casbah, 11 Western Road, Hove be revoked for the reasons set out above.

Note: The Legal Adviser to the Panel explained that the premises Licence holder would receive notification of the Panel's decision in writing with details of their appeal rights attached.

82. REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003, CASBA 2, 8 WESTERN ROAD, HOVE

- 82.1 The Panel considered a report of the Director of Public Health requesting that they review the Premises Licence of Casba 2, 8 Western Road under the provisions of the Licensing Act 2003.
- 82.2 Mr Savill Barrister at Law and Sergeant Morgan were in attendance on behalf of the Police. Councillor Mac Cafferty was in attendance in his capacity as a Ward Councillor in support of his own submission and those made by local residents' associations and Mrs Mc Naught of the Licensing Section on behalf of the Licensing Authority in support of the Police' request that consideration be given to revocation of the Licence. The Licence Holder, Mr Dema was in attendance accompanied by his fiancée Ms Bowden who also spoke on his behalf.

Introduction by the Licensing Officer

- 82.3 The Licensing Manager Mrs Cranford confirmed that the Panel were being requested to consider an application for review which had been made by Sussex Police. The Police were seeking a review on the grounds of crime and disorder and prevention of public nuisance. Further evidence to support the application was submitted to the Licensing Authority office and was attached within the revised Appendix E which had been circulated.
- 82.4 Sussex Police had requested revocation of the licence on the grounds that since November 2013 the premises had been observed breaching their permitted hours on five occasions and in view of the grave concerns they had in relation to the licensing objectives in relation to the Prevention of Crime and Disorder, the Prevention of Public Nuisance and Public Safety.
- 82.5 Four Representations had been received from Interested Parties from two Local Resident Associations, from Councillor Mac Cafferty a Local Ward Councillor for the Brunswick and Adelaide Ward and the Licensing Authority on the grounds of crime and disorder, the prevention of public nuisance and public safety.
- 82.6 The Licensing Officer confirmed that the powers available to the licensing authority when deciding on any action for this application which will conclude this hearing were:
- the modification of the conditions of the premises licence (including the times that licensable activities can take place)
 - the suspension of the licence for a period not exceeding 3 months;
 - the revocation of the licence

- or they can decide to do nothing.

82.7 Councillor Deane reiterated her earlier comments in respect of Casba, 11 Western Road referring to information contained in the submitted paperwork in relation to food hygiene and other health and safety issues which had been observed and reported on at the premises stating that they fell outside the control of the Licensing regime. It was confirmed that was the case and that a raft of issues had been experienced in relation to operation of the premises.

Submission by the Police

82.8 Mr Savill spoke on behalf of the Police stating that they had grave concerns regarding the premises apparent disregard for the Licensing objectives. The Police contended that the management team of Casba (who were committing a criminal offence on every occasion they traded beyond their permitted hours) were not promoting the licensing objectives, specifically the prevention of crime and disorder and public nuisance. The premises were committing crime under Section 136 of the Licensing Act by repeatedly remaining open and serving hot food and drink after the hours they were licensed for. Additionally, they had been further breaching their licensing conditions relating to CCTV by having none available on 01/01/2014, 08/02/2014 and 15/02/2014. The attitude displayed on 1 January 2014 when the premises was found to be serving on 3 occasions throughout the evening despite being given words of advice and being asked to close on the first two visits clearly showed a flagrant disregard by the management for their prescribed hours and the need to promote the licensing objectives. Warnings by the Police had been in addition to two formal warning letters and a verbal reminder of hours from the Council's Licensing Department. There had been a further formal letter from Food Safety which although separate from the issues to be considered under the Licensing regime was a further indicator of the lack of regard by the premises for its responsibilities and gave rise to a lack of faith in the management.

82.9 Mr Savill went on to explain that notwithstanding these letters and verbal interventions, plain clothes officers had visited the premises and been served with food when a test purchase had been carried out on 8 February 2014 after licensable activity should have ceased and the premises should have been closed. Subsequently, the premises was again observed trading beyond their permitted hours on 15 February 2014 at which time a further verbal warning had been given.

82.10 Sussex Police had given consideration to requesting that further conditions be added to the licence but as the premises staff and management were not complying with the minimal conditions already on the existing licence this was not considered to be a viable option. Additionally, Sussex Police did not believe that a reduction in hours would address the problem given that the premises were continually and deliberately trading past the one hour they had Sunday-Thursday and the two hours they had been granted on Friday-Saturday by a considerable amount of time. On those grounds the Police considered that there was no alternative other than to request that the Panel give serious consideration to revocation of the premises licence of this venue. It was their contention that revocation of the licence was an appropriate and proportionate response to the repeated disregard of the hours on the existing licence and the additional public nuisance caused as a result of trading beyond the permitted hours. In this instance they were of the view that the disregard of the licence was far more serious than those in

relation to Casba because they had been more sustained and had flown in the face of advice given by both the Police and Officers of the Environmental Health Licensing section. Direct face to face conversations had taken place with Mr Dema and the advice given and assistance offered had been totally ignored.

Submission by the Ward Councillor

- 82.11 Councillor Mac Cafferty confirmed that he was in attendance in his capacity as one of the Local Ward Councillors for the Brunswick and Adelaide Ward, and on behalf of the two local residents associations. He confirmed that he fully supported the request by the Police that the licence for these premises be revoked for repeatedly operating beyond their permitted hours. As a result of his work the Local Action Team he was aware that anti-social behaviour and fear of it, particularly at night was a real issue of concern for local residents. The gate which had been erected at Farman Street near to these licensed premises in order to address late night disturbance to residents among other issues. If premises did not adhere to their agreed opening hours it gave rise to a greater risk of public nuisance and resulted in those travelling through the area on their way home to linger in order to buy hot food and in so doing to increase the risk of later night noise and other nuisance. The four licensing objectives needed to be observed for good reasons and in this instance they had been flouted repeatedly.

Submission by Environmental Health

- 82.12 The Licensing Officer Mrs McNaught stated that she was present to speak in support of the request by the Police that the licence be revoked. She referred to the correspondence that had been submitted with the papers for consideration by the Panel indicating that she had written to Mr Dema on a number of occasions in response to complaints received in relation to premises opening beyond their permitted hours.
- 82.13 In answer to questions Mrs McNaught confirmed that she had met with Mr Dema in the Autumn of 2013 at that time she had explained to him the nature of the offences that had occurred and the need for them to be remedied. She had left a business card with Mr Dema setting out her contact details and had sought confirmation from him at that meeting that he understood what was required. Mr Dema had also been invited to contact her if there was any matter of which he was unsure or on which he required clarification.

Submission on Behalf of the Applicant

- 82.14 Mr Dema stated that the current situation in respect of this premises lay with his previous manager, now released from employment who had been managing the premises on his behalf. Mr Savill queried why Mr Dema had been unaware of the situation given that letters in respect of this matter had been addressed to him and sent to his home address. Mr Dema stated that as the letters had related to the premises he had not understood their importance and had forwarded them on to the manager.
- 82.15 Mr Savill inquired why if it was his business Mr Dema had not taken a more pro-active role, nor taken advice as to what his responsibilities on taking on such a business were. Mr Dema responded that as he was only aged twenty three both of the Casba

businesses were his first business venture he had only had them for about a year and was still learning.

- 82.16 Councillor Deane, the Chair asked how, given his lack of experience Mr Dema had raised the finance for these businesses and how he had become interested in taking them on. Mr Dema stated that his father had worked in one of the premises for 13 years. One of the businesses had been given to him and the other had cost £10,000 and had been paid for with family money.
- 82.17 Mr Savill queried Mr Dema's assertion that he was unaware of what was expected given that he had received correspondence and advice from Mrs McNaught regarding his responsibilities in running the premises as well as from Police officers and also bearing in mind that Mrs Mc Naught had expressed a willingness to clarify or discuss any matter and had asked Mr Dema whether he had understood the matter.
- 82.18 Councillor Deane, the Chair asked Mr Dema whether he understood that responsibility for the manner in which a premises was run lay with the premises licence holder, also the need for the licence to be displayed at the premises. Mr Dema referred to the previous role of his manager and to the fact that he was still familiarising himself with the business. Councillor Simson asked Mr Dema whether he was aware of what the four licensing principles were and the need to comply with them. Mr Dema said he did not know what they were. Mr Dema had nothing further to add and there were no further questions so the Panel then moved to consideration of the closing submissions.

Closing Submissions

- 82.19 In closing the Licensing Manager, Mrs Cranford confirmed that where the licensing authority considered that action was necessary under its statutory powers it could take the following steps:
- modify the conditions of the premises licence (including the times that licensable activities could take place);
 - suspend the licence for a period not exceeding 3 months;
 - revoke the licence
 - decide to do nothing.
- 82.20 If the panel decided to add additional conditions they should be clear, precise and enforceable as penalties for breaching the conditions of a licence were severe. The panel's decision should be appropriate and proportionate to promote the licensing objectives.
- 82.21 Mr Savill made the closing submission on behalf of the Police stating that he had nothing to add except to reiterate that given the level of disregard and understanding of his responsibilities as a premises licence holder that had been demonstrated by the applicant he was firmly the view that it would be appropriate for consideration to be given to revoking the licence. As the Police and Environmental Health had sought to work with the applicant to no effect he had no confidence that other measures, such as a reduction in hours would result in compliance.

- 82.22 Councillor Mac Cafferty stated that he had nothing to add to his earlier comments although he considered that it was telling that the applicant had indicated that he had no knowledge of the four licensing objectives. He fully supported the Police' position in respect of this matter.
- 82.23 The Licensing Officer, Mrs McNaught confirmed that there was nothing which she wished to add to her earlier submission, also confirming that she fully supported the request being made by the Police that revocation of the licence be considered.
- 82.24 Mr Dema stated in conclusion that he had not realised the seriousness of this matter as he was new to the business having only been trading for a year. Staff employed at the premises who had not been operating it in an appropriate way had been dismissed. He wanted the opportunity to carry on trading and to put things right.
- 82.25 On returning following the Panel's private deliberations the Chair, Councillor Deane explained that the Panel had carefully considered the review application, had read the supporting documents relating to this case and listened to all the submissions. The Panel had heard evidence from the licensing authority of repeated breaches of the licence conditions relating to licensing hours and CCTV. These breaches had taken place despite repeated visits and warnings from police and the licensing authority and were deemed to be both wilful and persistent. Under the terms of the Licensing Act 2003, the licence holder was responsible for ensuring that a licensed business is run in accordance with the law.
- 82.26 The Panel had considered all the options available to it in terms of suspension and modification of conditions, and did not feel that the premises licence holder had demonstrated sufficient knowledge or experience to operate within the licensing objectives following a period of suspension. He had failed to engage with either the police or the licensing officer, despite her considerable efforts. He showed no understanding of his responsibilities as a licence holder. It was noted that, despite being the license holder, Mr Dema had made no attempt to visit the premises during licensing hours, or to head or follow up the warnings given, placing sole responsibility in the hands of a manager.
- 82.27 The Panel had therefore decided the only option in this case was to revoke the licence and believed this was an appropriate and proportionate response to promote the licensing objectives.
- 82.28 **RESOLVED** – That the premises licence of Casba 2, 8 Western Road, Hove be revoked for the reasons set out above.

Note: The Legal Adviser to the Committee explained that the Premises Licence holder would receive notification of the Panel's decision in writing with details of their appeal rights attached.

The meeting concluded at 3.05pm

Signed

Chairman

Dated this

day of
