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LICENSING SUB-COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT on Monday, 6 June 2022 from 10.00 am - 1.13 pm.

PRESENT: Councillors Derek Carnell, Carole Jackson and Mike Whiting.

OFFICERS PRESENT: Billy Attaway, Steph Curtis, Robin Harris, Chris Hills, Kevin Tucker and Helen Ward.

OFFICERS PRESENT (Virtually): Kellie MacKenzie and Jo Thomas.

ALSO IN ATTENDANCE: Dan Hunt, Kevin Pearton, Haydn Pugh, Andre Smuts and Stephen Thomas.

ALSO IN ATTENDANCE (Virtually): Councillors Cameron Beart, Roger Clark, Steve Davey, Mike Dendor and Tony Winckless.

41 **Emergency Evacuation Procedure**

The Chairman drew attention to the Emergency Evacuation Procedure.

42 **Notification of Chairman and Outline of Procedure**

The Chairman opened the meeting and asked those present to introduce themselves.

43 **Declarations of Interest**

No interests were declared.

44 **Review of a premises Licence under the Licensing Act 2003**

The Licensing Officer introduced the report which asked Members to consider the application for a review of the licence granted under the Licensing Act 2003 in respect of the Life Nightclub, 76-78A High Street, Sittingbourne, Kent ME10 4PB made by PC 11044 Daniel Hunt. The Licensing Officer reminded Members that the reasons for the review were to promote the licensing objectives: The prevention of crime and disorder; the protection of public safety; the prevention of public nuisance; and the protection of children from harm. The premises had breached the licence conditions and the review application was set out at appendix II of the report. The Licensing Officer informed Members that during the 28-day consultation period comments had been received from the Environmental Health team with regards to some noise complaints at the premises. She added that Kent Police Licensing officers, premises licence holder and Designated Premises Supervisor (DPS) held a meeting at the premises with their legal representatives and some proposed additional conditions to the premises licence were discussed, and these were set out in appendix V of the report.

The Chair asked the Kent Police Licensing Officer, PC 11044 Daniel Hunt to present his statement. He explained the five incidents that were set out in the report, one of which was still on-going.

The Chair invited Members of the panel and officers to ask questions:

- If the premises had more door staff at the front and within the radius of the premises would it have prevented some of these incidents?;
- how many door staff did the premises operate with, and what was the capacity of the nightclub?; and
- how often were staff trained, and was it reviewed by the premises holder?.

The Kent Police Licensing Officer made it clear to Members that a presence on the door did not always prevent incidents from occurring. However, Kent Police expected premises to be responsible for the customers leaving the premises and for security staff to make any early interventions, without putting themselves at risk, within a certain radius of the premises.

The Premises Holder clarified that the nightclub on a normal night would operate with 4-6 door personnel with extra staff inside the facility, walking the floor. The nightclub could hold up to 285 people and the staff were regularly trained and kept up-to-date on the nightclub's procedures.

45 **Exclusion of Press and Public**

At this point, following a request from Kent Police to show some CCTV evidence, Members took a vote on whether to inspect the CCTV footage in closed session.

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of the Schedule of 12A of the Act:

- 1. Information relating to any individual.***
- 2. Information which is likely to reveal the identity of an individual.***

The Kent Police Licensing Officer showed Members the CCTV footage and the Chair invited Members and Officers to ask questions.

The Chair then asked Members to vote on whether the meeting should revert back into open session.

Resolved:

That the meeting be opened back into public session.

The Legal Officer asked a question with regard to the new Dispersal & Control of Admission Policy, and she asked how the premises holder would enforce items being bought outside into the smoking area. The premises holder explained that he hoped the customers of the nightclub would be able to go outside into the smoking area with their drinks as it was a sociable place for people to smoke and drink. He advised that there was a member of staff regularly checking the smoking area and clearing away any drinks or drinking vessels.

The Senior Environmental Health Officer presented his statement setting out the various noise complaints they had received over the past year and that officers had witnessed the noise coming from the nightclub and from customers leaving the nightclub. The Senior

Environmental Health Officer proposed to the Committee that the closing hours of the Life nightclub be amended from 4 am to 2 am so that they were the same as similar businesses in the High Street. The premises holder reminded Members that as shown in the restricted appendices several local residents had written to him in support of the nightclub and that they were happy for it to remain operating within its normal hours. The Legal Officer asked the Senior Environmental Health Officer if he had an opportunity to review the Dispersal Policy and whether it dealt with his concerns and he confirmed that it did.

The Chair invited the premises holder to make his statement.

The Premises Licence Holder apologised that the premises CCTV footage had not been working and assured Members that this had been repaired and the premises had been re-cabled with new CCTV cameras. He added that during the police incidents he was unable to be present at the premises on those particular nights due to personal reasons and had replaced the door staff and ensured that they were all fully Security Industry Authority (SIA) trained and made aware that they were responsible for customers leaving the premises and the surrounding area. He emphasised to Members that he had held the Licence for 17 years and in that time always kept a good working relationship with Kent Police and the Licensing Authority.

The Legal Officer asked the Premises Licence holder to clarify the location of the balcony, which the Premises Licence Holder confirmed was the area marked "Fire Escape". The Legal Officer asked if customers were permitted to access this area and the Premises Licence Holder confirmed that they were. The Legal Officer asked about the glass bottles and the Premises Licence Holder said that there was a mistake in the Dispersal Policy which said that glass bottles were permitted in this area. The Legal Officer asked whether the bottle used in the incident had been recovered and the Premises Licence Holder confirmed it had not although they did confirm that all bottles were toughened or polycarbonate.

The Kent Police Licensing Officer outlined the extra conditions agreed between Kent Police and the Premises Licence Holder for Members. Kent Police confirmed that they were satisfied with the proposed conditions and that those already added to the licence by way of minor variation were enough to deal with their concerns. They confirmed that they understood the concerns from the Premises Licence Holder regarding ID scans and were no longer seeking to impose this as a condition.

Members of the Licensing Sub-Committee adjourned at 12:23 pm to make their decision.

Members of the Sub-Committee, the Contentious Lawyer and Democratic Services Officer returned to the meeting at 1:10 pm and the decision, attached as Appendix I to these minutes was announced.

Resolved:

That the Premises Licence Holder be issued with a warning and that they should ensure the Dispersal Policy reflected the terms of the premises licence and that they should continue to work with Kent Police and ensure incidents were reported if appropriate.

The meeting was adjourned from 11:02 am to 11:10 am and 12:23 pm to 1:10 pm.

Chairman

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All minutes are draft until agreed at the next meeting of the Committee/Panel



**LICENSING AUTHORITY: SWALE BOROUGH COUNCIL
LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION
REVIEW**

Applicant: PC Hunt on behalf of Kent Police

Premises Life (Nightclub), 76/78A High Street, Sittingbourne Kent ME10 4PB

Date(s) of hearing: 6 June 2022

Date of determination: 6 June 2022

Committee Members: [Chairman]: Councillor Derek Carnell (Chair)
Councillor Carole Jackson
Councillor Mike Whiting

Legal Advisor in attendance: Helen Ward, Lawyer (Contentious) MKLS

Licensing Officer in attendance: Christina Hills

This was an application for:

Review

of a

Premises Licence

A: Representations, evidence and submissions:

The Sub-Committee considered the representations, evidence and submissions of the following parties:

Applicant

Name: Kent Police, PC Daniel Hunt and PC Andre Smuts

Legal or other representative: None

Responsible Authorities

Environmental Health, Kevin Michael Tucker, Environmental Health Officer

Other Persons

None

Premises Licence Holder

Dr Hadyn Pugh

Legal or other representative: Mr Stephen Thomas

Witness: Kevin Pearton (DPS)

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Swale Borough Council

The Sub-Committee has taken into account specifically the following provisions of the Licensing Act 2003 and the Regulations thereto:

Sections 51

The Sub-Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 10 which relates to conditions attached to licences;
Chapter 11 which relates to reviews.

The Sub-Committee has taken into account its Statement of Licensing Policy, in particular:

Section 14, relating to reviews
Section 16, relating to hearings
Section 17, relating to conditions

The Sub-Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):

N/A

C: Determination:

The Sub-Committee has decided:

- To issue the premises with warning that they must continue to work with the Police to ensure promotion of the licensing objectives. In particular, they should take steps to update the dispersal policy so that it reflects the terms of the premises licence and ensure there is a procedure to report matters to the police where appropriate.

Reasons for determination, considering each of the licensing objectives in turn:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee considered the evidence that was presented including detailed discussions about the evidence and the CCTV. The Sub-Committee were concerned that the incidents had occurred but welcomed the measures that the premises had taken to address these including the dispersal policy, the new conditions added by way of minor variation and the change to the door team. The Committee also welcomed the new CCTV system that had been put in place to include coverage of the smoking area.

The Sub-Committee considered the conditions requested in the original Review application and those that were now applied to the premises licence following the minor variation. The Sub Committee were satisfied that the conditions added by way of minor variation were appropriate and proportionate to address the licensing objectives and no further conditions were required.

■ **Public Safety**

Reasons (state in full):

There were no representations relating to this licensing objective.

■ **Prevention of public nuisance**

Reasons (state in full):

The Sub-Committee considered the evidence put forward by the Environmental Health Officer however they were not satisfied that the evidence was substantiated and did not consider that any further steps were required to ensure the prevention of public nuisance.

■ **Protection of children from harm**

Reasons (state in full):

The Sub Committee considered the evidence of underage persons on the premises and the measures that had been put in place including staff training and checking of customer ID and are satisfied that no further steps are required to ensure the protection of children from harm.

D: Appeal

Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the Licensing Act 2003.

An appeal has to be commenced by the giving of a notice of appeal by the appellant to the justices' chief executive for the magistrates' court within a period of 21 days beginning on the day on which the appellant was notified by the licensing authority of the decision to be appealed against.

PRINT NAME (CHAIRMAN): Derek Carnell

Signed [Chairman]: DEREK CARNELL
A copy of the original document is held on file

Date: 10.06.2022