

**LICENSING SUB-
COMMITTEE**

10.00 A.M.

4TH OCTOBER 2022

PRESENT:- Councillors Mike Greenall (Chair), Fabiha Askari and Colin Hartley

5 LICENSING ACT 2003 PREMISE LICENCE REVIEW - THE BOARDWALK, 100 MARINE ROAD, MORECAMBE, LA4 4DR - DETERMINATION OF APPLICATION FOR THE REVIEW OF THE PREMISE LICENCE

The Sub-Committee comprised of Councillor Mike Greenall (Chair), Councillor Fabiha Askari and Councillor Colin Hartley.

The Legal Adviser was Daniel Spencer, Solicitor.

The Democratic Support Officer was Stephen Metcalfe.

An application had been made for a review of a Premise Licence, under Section 51 of the Licensing Act 2003, submitted by Mrs Rachel Stainton, Senior Environmental Health Officer, Lancaster City Council, Public Protection Service. The application relates to The Boardwalk, 100 Marine Road, Morecambe, LA4 4DR. There have been further relevant representations received from PC Andrew Taylor on behalf of the Chief Officer of Lancashire Constabulary, Lancashire Fire and Rescue Service and from Sarah Jones, Enforcement Officer from the Licensing Authority. The hearing was necessary in light of the relevant representations received.

The following parties were present and made representation to the Committee; Mrs Rachel Stainton, Senior Environmental Health Officer (Applicant), PC Andrew Taylor on behalf of the Chief Officer of Lancashire Police, Ms Sarah Jones, Licensing Enforcement officer and Mr Lee Michael Wallett, (Premises Licence Holder and Designated Premises Supervisor), Mr Darren Clifford (Business Partner to Mr Walett).

The Committee also considered a letter from Mr Mick Birks who is an authorised fire safety inspector appointed by Lancashire Fire and Rescue Service, which outlined the results and recommendations following an inspection of the licensed premises on the 25th of August 2022.

The Chair explained the procedure to those present and stated that the hearing would be a discussion led by the licensing authority.

Parties present introduced themselves.

Mrs Jennifer Curtis, Licensing Manager, introduced the report.

The applicant Mrs Rachel Stainton, Senior Environmental Health Officer then presented her representations in line with the details provided within the report. She did provide additional information, stating that since an application for a review of the premises licence was submitted on the 10th of August 2022 there been further complaints relating to excessive noise and noise apps have been submitted, the most recent of which was

Sunday 2nd October 2022. Before presenting the additional information the agreement of all parties to present was obtained.

Police Constable Andrew Taylor made representations on behalf of Lancashire Police. The representations made were in line with the representations contained within the report. Additional information was provided in relation to a further incident on the 13th of September 2022, whereby there were a large number of customers drinking on the site and on the street. The door staff didn't have a Hi-Viz jacket and hadn't been using the clicker properly to count the number of people on site. On this date PC Taylor confirmed that there was approximately 166 people on site at the premises. At that time Mr Wallett was not present, but he did call the officer two days later to discuss.

Sarah Jones, Licensing Enforcement Officer, made representations in line with her report.

Mr Lee Wallett, as the licence holder and Designated Premises Supervisor for The Boardwalk was present alongside his business partner Mr Darren Clifford.

Mr Clifford, referring to issues that were not in the public domain, requested that the Sub-Committee hear this evidence in private. The Sub-Committee, after receiving the advice of the Legal Adviser, unanimously agreed that any evidence should be heard in the public part of the meeting.

Mr Wallett and Mr Clifford made lengthy representation in relation to the issues and allegations raised, outlining that much of the issues described took place when a different business partner was involved in the premises. They described how they have attempted to make changes to address the issue of noise complaints, by reducing the number of speakers used and moving live performances from the front of the premises to the rear. They also stated that with regards to the concerns raised by the fire service they have welcomed the advice and that they have been implementing the proposals outlined already and will also be installing a new fire door in the near future which will also help with the acoustics.

They did acknowledge that there had been excessive noise at times but were willing to work with parties to address the issues. Mr Wallett stated that since taking over he has done a good job of running the business, they have refurbished the premises and installed a new state of the art CCTV system. They stated that they run a safe establishment and although there had been some issues, they have been working to rectify them. They welcomed the advice provided by the police, environmental health and the fire service and will continue to work with people to keep the premises safe and to get along with their neighbours.

After summoning up by all parties the Sub-Committee then withdrew to make its decision and sought advice from its Legal Adviser as to the appropriate phraseology of the decision.

DECISION

The Sub-Committee carefully considered all the written information before it, together with the statutory guidance and the Council's own Statement of Licencing Policy. The Sub-Committee carefully considered all the representations and views expressed at the hearing.

The options available to the Sub-Committee were to take no further action, if none is needed to promote the licensing objectives. They could issue an informal warning to the licence holder and/or recommend improvements over a particular period of time. If however the Sub-Committee consider that it is necessary for the promotion of the licensing objectives than in accordance with Section 52 (3) and (4) of the Licensing Act 2003, it must take one of the following steps:

- (a) to modify the conditions of the licence,
- (b) to exclude a licensable activity from the scope of the licence,
- (c) to remove the designated premises supervisor,
- (d) to suspend the licence for a period not exceeding three months,
- (e) to revoke the licence

The Sub-Committee has been presented with evidence that the premises has failed to control the level of noise coming from its premises and that despite repeatedly being informed of this problem and the effects that the noise was having on local residents within the vicinity they have failed to take any meaningful positive steps to prevent or reduce the noise. The Sub-Committee particularly noted the numerous attempts the Environmental Health team made to discuss the issue with premises in order for them to address the issue of noise, with this including multiple visits, letters and enforcement action by way of an Abatement notice, but despite these interventions complaints of excessive noise has continued.

The Sub-Committee are satisfied based upon the evidence heard, that the level of noise, the times of the noise and the duration of the noise coming from the premises does amount to a public nuisance.

Furthermore, the Sub-Committee heard representations from the police relating to incidents of violence and public disorder that has occurred both inside and outside of the licensed premises and issues were raised regarding the number of SIA door staff employed at the premises and issues obtaining CCTV.

The Sub-Committee has decided that it is necessary for the promotion of the licensing objectives, in particular the prevention of public nuisance, the prevention of crime and disorder and for public safety, to modify the conditions of the premises licence (a copy of the amended conditions are attached with this notice). Furthermore, it is necessary and to reduce the hours of regulated entertainment on Thursdays, Fridays, Saturdays and Sundays to 10.00 – 23.00.

In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal against this decision.

Importantly, the parties are reminded of the statutory right of responsible authorities and other persons to seek a review of a licence on the basis that the licensing objectives are not being met. This would be particularly relevant in the event of any ongoing complaints about the premises.

THE BOARDWALK, 100 MARINE ROAD, MORECAMBE**Conditions consistent with the Operating Schedule**

1. A personal licence holder shall normally be on the premises at all times during which intoxicating liquor is being sold or supplied to customers or consumed by customers, except in the case of an emergency
2. The designated premises supervisor or a person nominated by them shall be a member of and regularly attend meetings of any Pubwatch scheme for the area within which the premises are located and would include registration and use of community/network radio.
3. Any outside area, which is used for the consumption of alcohol, shall cease to be so used at 21.00 hours.
4. The provision of off-sales to terminate at 23.00 hours.
5. Before the premises are opened for the purposes authorised by the licence an inspection shall be carried out to ensure that the premises are safe for use. Details of the inspection, defects discovered, and remedial action taken shall be recorded in writing in a logbook kept for that purpose. That logbook shall be made available for inspection on demand to an Authorised Officer of the Council, a Fire Officer or a Police Constable.
6. At all times when the premises are used for the purpose of the premises licence, the licence holder, manager, or designated premises supervisor who is responsible for the management of the premises shall at all times be aware of the number of persons on the premises and shall if requested to do so give that information to an authorised person.
7. The designated premises supervisor or responsible person will conduct daily, regular noise assessments and document such checks, including any remedial action taken.
8. All internal doors and windows of the premises will be closed at 22.00 hrs.
9. Any speaker system used at the premises will have a built-in noise limiter.
10. The provision of late-night refreshment is to be for customers on the premises and there will be no takeaway service.
11. There will be no adult entertainment services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.
12. All U16s will be accompanied by adults.
13. Polycarbonate drinking vessels to be used in all outside areas.
14. A documented Challenge 25 scheme will be operated at the premises.

The Challenge 25 scheme shall be actively promoted and advertised at the premises and will ensure that any person purchasing alcohol, who appears to be under 25 years of age, shall be asked to provide acceptable identification to prove that they are 18 years of age or over. Failure to supply such identification will result in no sale or supply of alcohol to that person.

The Proof of Age Standards Scheme (PASS) will be actively promoted at the premises by the display of Challenge 25 posters bearing the PASS logo. A PASS accredited holographic proof of age card will be the main identification document accepted at the premises as proof of age. A PASS card must be accepted as

proof of age if a purchaser possesses one. Where a purchaser does not possess a PASS accredited proof of age card, only the following alternative forms of alternative identification will be acceptable:

- a. Photo driving licence
- b. Passport or Page 349
- c. Her Majesty's Forces Warrant Card

15. An incident book will be maintained in which there will be recorded:

- All incidents of crime and disorder
- Refused sales to suspected under-age and drunken persons.
- A record of any person asked to leave the premises.
- Details of occasions on which the police are called to the premises.
- A record of persons searched on suspicion that drugs are being carried and the reason for such suspicion.

The book will be available for inspection by a police officer or authorised person on demand.

16. CCTV equipment shall be installed and be maintained in good working order in accordance with the manufacturer's instructions.

Training should be provided for staff members in the usage of the CCTV equipment CCTV footage recorded must, as a minimum, cover each entry/exit point of the premises and be recording at all times when the premises is conducting licensable activities.

The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 21 days.

The Data Controller will make footage available within a reasonable time to a Police Constable or Authorised Officer, where such request is made in accordance with, and which satisfies the Data Protection Act 1998.

17. On Friday and Saturday, a minimum of 2 SIA registered door staff must be on duty for the first 100 customers from 18:00 hours to close followed by an extra one member of door staff for each additional 100 customers or part thereof. They must cover the door at all times until close.

A written record shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a door supervisor in a register kept for that purpose.

That record shall contain the following details:

- the door supervisor's name, date of birth and home address
- his/her Security Industry Authority licence number Page 350
- the time and date he/she start and finishes duty
- the time of any breaks taken whilst on duty

On any other day of trading the DPS must use the following 'risk assess' door staff condition:

Any requirement for SIA Door Staff to be on a risk assessment basis such as: Music Festivals, St Patrick's Day, Bank Holidays, last Friday before Christmas known as 'Black Eye Friday', Any showing of major sporting events including Boxing, Football (World Cup, European Championships, Premier League), Wrestling etc.

Where there is information from Police where security is needed such as a wake, funeral or high tensions in the area and community. Also, consideration for SIA Door Staff for Private Bookings or events such as Christenings, Birthdays, Funeral Wakes where there is a possibility of large numbers of patrons. The DPS must risk assess these events and have in place sufficient SIA Door Staff cover to manage the premises and ensure the Licensing Objectives are being promoted.

Any bookings, events etc where large numbers expected (large numbers being in excess of what the DPS usually expects on any given day of trading) then the DPS is requested to email Police Licensing.

Management are welcome to contact Police Licensing for any advice on these matters. Guidelines for SIA Door Staff are 2 x SIA Door Staff cover for the first 100 patrons then a further 1 x SIA Door Staff cover for each 100 patrons therein.

(The meeting ended at 1.15 p.m.)