

LICENSING & GENERAL PURPOSES COMMITTEE
GENERAL LICENSING PANEL
14 December 2016

Minutes of the General Licensing Panel held at the Town Hall, Bexhill-on-Sea on Wednesday 14 December 2016 at 2:00pm.

There were present:

Members of the General Licensing Panel:

Councillors Lord Ampthill, R.K. Bird and Mrs S. Hart.

Interested Parties

Applicant: Mrs I. Hackett and Mr P. Hackett

Applicant's solicitor: Mr C. Rees-Gay

Applicant's agent: Mr G. Dove

Representors: Mr N. Birch, Ms J. Long and Mrs M.J. Smith

Advisory officers: Deputy Legal Services Manager - Wealden & Rother Shared Legal Services, Senior Environmental Health Officer (Licensing), Environmental Health Licensing Officer and Democratic Services Manager.

Also Present: 10 members of the public.

LP16/01. **APPOINTMENT OF CHAIRMAN**

Councillor Hart was duly appointed as Chairman of the Panel for the hearing.

LP16/02. **MINUTES**

The Chairman was authorised to sign the minutes of the meeting of the General Licensing Panel held on 21 March 2016 as a correct record of the proceedings.

LP16/03. **APPLICATION FOR A PREMISES LICENCE – MILLIGANS, WILTON ROAD, BEXHILL-ON-SEA**

Consideration was given to the report of the Executive Director of Business Operations that gave details of an application for a premises licence made for Milligans, Wilton Road, Bexhill-on-Sea for the licensable activities of the sale of alcohol, live music and recorded music after 11pm and late night refreshment. Twelve representations had been made in relation to the application in regard to the licensing objectives the prevention of crime and disorder and public nuisance.

Prior to the commencement of the hearing, the Deputy Legal Services Manager gave advice to the applicant and his agent and solicitor and representors regarding the grounds on which the licensing application could be considered.

The Chairman welcomed all who were present and gave general advice in regard to the hearing. The Panel then proceeded to hear the case following the adopted procedure and all parties present at the hearing were invited to address the Panel.

Members heard from the applicant's solicitor, who presented the case for the application. He outlined the applicant's previous history and experience of licensed premises management and community integration. The applicants had met with Rother Licensing Officers and Sussex Police to ensure that the application and conditions offered would meet the licensing objectives, prior to submitting the application.

Members also heard from the representors present who detailed their concerns in relation to public nuisance in terms of noise during events and patrons leaving the premises late at night which resulted in disturbed sleep and fatigue on following days. All letters of objection were given Members' full consideration.

Members deliberated the application which was determined having regard to the licensing objectives, together with the Guidance under section 182 of the Licensing Act and the local Licensing Policy, and retired to make their decision in private session. Due to the length of time the hearing had taken, it was agreed to notify all parties of the Panel's decision within 5 working days.

RESOLVED: That the application for a Premises Licence be granted subject to the conditions as set out in Appendix 1.

CHAIRMAN

The meeting closed at 3:45pm

GLP161214.lec/lja

GENERAL LICENSING PANEL DECISION NOTICE

Date of General Licensing Panel Meeting: 14 December 2016

Venue: Town Hall, Bexhill-on-Sea

Date of Decision: 14 December 2016

NAME AND ADDRESS OF PREMISES:

Milligans, Wilton Road, Bexhill-on-Sea

NAME(S) OF APPLICANT:

Mrs Imelda Hackett

REASON(S) FOR REPORT:

The report had been subject to twelve representations on the grounds of the prevention of crime & disorder and prevention of public nuisance.

DECISION MADE AND REASONS FOR IT:

The Members were asked to consider the application for a new premises licence for Milligans in Wilton Road, Bexhill-on-Sea. The premises already had a premises licence dating back to 2005 but this no longer reflected the business aspirations of the venue and so an application had been made for a new licence. It was stated at the hearing that the old licence would be surrendered on the issue of a new one. The Members had within their papers the report of the Licensing Officer together with the application; proposed conditions, plans, photographs of the area, the representations and supplementary documents submitted by the applicant by way of photographs, menus, and copies of premises licences for neighbouring licensed premises. In addition, the Members also had regard to their own Statement of Licensing Policy dated 2016 and the Secretary of State's Guidance issued under S.182 Licensing Act 2003.

The premises comprised of two distinct areas, described by the applicant as a ground floor bar and a basement function room. Differing hours had been requested for the two areas as set out in the report. Also within the report were a significant number of conditions that had been offered by the applicant to address issues raised in the representations, and additional matters recommended by Sussex Police. There was also a suggested condition from the Environmental Health Division concerning the fitting of a noise limiting device.

The application had been subject to 12 representations which predominantly focused on noise from within the premises by way of amplified music, and noise from outside the premises from patrons. There were also indirect assumptions made by the representors that higher reported crime on Wilton Road was being caused by patrons, but this was disputed by the applicant and Sussex Police had not attributed the raised crime figures to the premises.

In setting out their case, the applicant through their Solicitor Mr Rees-Gay, had stated that the operators had been running the premises for over eight years without complaint. They had worked with the Council and other Responsible Authorities to establish themselves as an operator who took their responsibilities seriously. They had offered a wide range of conditions to ensure that the premises could operate

without impacting upon the licensing objectives, and indeed they had, that very day, introduced themselves to the neighbourhood and provided direct contact details for the applicant should any local resident have any concerns about the operation of the premises. They refuted the evidence within the representations, stating that nobody had approached them directly over the years about any incidents of poor management, save for recent complaints directly from Mr Birch, who they described as the main complainant to this application. They stated that many of the representations were ill-founded and incorrect and that disturbances in the past were as a result of the Fusion nightclub. It was said, in evidence, that no Statutory Nuisance had been proved and that should such a level ever have been in existence, then the Environmental Health Officer would have served a notice. The Chair reminded the applicant that the test for licensing was that of public nuisance and not statutory nuisance, and that was accepted by them. The applicant offered a new additional condition to the Members in relation to the provision of door staff who would be on duty outside the premises between 22.00 – 1.30 when regulated entertainment was provided, which would resolve many of the issues outside the premises.

The operator denied any threats had been made to Mr Birch and suggested that it was he himself that had been threatening to the applicants. It was emphasised that these were not problem premises and that their record over the previous eight years spoke volumes about their good management. It was suggested that with the appropriate conditions in place, there would be no detrimental impact to the locality as a result of the longer hours, and that it would allow the premises to offer competitive facilities to meet demand within the town.

The Members asked a series of questions of the applicant for clarification before they were addressed by the representors. It was evident from the report that on a recent visit by a licensing officer, a clear breach of the licensing hours had been observed when an event had gone on until past midnight. This was accepted by the applicant but it was said this had been a misunderstanding over the permitted hours. The Members sought an agreement from the applicant that the area was residential, for the purposes of interpreting the Licensing Policy, but the applicant said that they considered the area to be of mixed commercial/residential usage and so the policy could not apply. It was agreed no other licensed premises were in Wilton Road, but accepted by all that other restaurants and bars were within a short distance away. There was also a question about the reported 'canyon effect' on noise as described by many of the representors who talked of the high buildings acting as a noise enhancer to any noises at street level, as this was a common feature in many of the letters of representation. The applicant denied that this effect occurred. The Members also sought clarification from the applicant about the status of the required attenuation works required under the planning permission, or whether a noise consultant's report had been considered useful to reassure Members of the noise attenuation properties of the building. The applicant stated that they assumed the works had been done, especially considering nobody had complained before the recent events, but were not certain.

The Members were then addressed by the representors, in particular by Mr Birch, and also Mrs Smith. Mr Birch lived directly above the premises, and he had complained regularly to the Environmental Health Division about noise from amplified music escaping into his flat. He sought to reassure Members that, in his personal experience, notwithstanding the denials made by the applicant, that the 'canyon effect' did occur and that late at night when noise levels were lower, the disturbances caused by patrons was amplified by the buildings. People congregating outside talking, shouting and waiting for taxis were very disturbing. He stated that the

Edwardian building was not designed for amplified music, and the inability of the applicant to clearly state that attenuation works had been completed under the planning permission demonstrated their inability to meet the licensing objectives. Equally he stated that the failure by the applicant to notify him that a temporary event was planned for the coming weekend breached their own assurances within the Noise Management Plan which was said to be the backbone of the manner in which future disturbances were to be avoided. It was said at that point that the event had been cancelled, but equally this had not been communicated to the neighbours before the meeting.

Mrs Smith also explained to the Members that, in her experience, the noise from the premises disturbed her regularly. Whilst she sought to explain that she tolerated some noise issues through the normal day, when it came to late at night and early mornings, the effect of being disturbed were a real risk to her health and others who had also made representations.

In considering the application, the Members had to find a balance between the commercial ambitions of the applicant, and the wellbeing of local people. They were satisfied on balance that the immediate area of Wilton Road was significantly residential, and given this was the only licensed premises within the street, then the measures set out within the Licensing Policy should apply. Accordingly they were satisfied on balance that in meeting the demand for the hours requested, strict conditions should be applied to the licence. The Members were reassured by the number of conditions offered by the applicant but were satisfied on balance, that it was appropriate to impose additional conditions to prevent breaches of the public nuisance objective. The Members were satisfied, on balance, that Mr Birch had suffered from noise and was likely to suffer, without protective measures, continued public nuisance when live or amplified music was provided. Whilst they accepted that no notice had been served under the Environmental Protection Act, they were satisfied Mr Birch was giving honest and credible evidence which showed he was the subject of disturbances when events were held at the premises, particularly late at night. They considered requiring sound proofing works, but concluded that the imposition of the condition relating to the noise limiting device would ensure that neighbours would not be disturbed by amplified music. Members were satisfied that together with the conditions offered, music from inside the premises should be inaudible to neighbours.

With regards to the issue of disturbance from patrons outside the premises, the Members considered that the measures within the Noise Management Plan, once fully implemented, would alleviate disturbances, but in order to support those measures the condition offered in relation to door staff would be accepted. Additionally, the Members would impose conditions relating to the provision of a dispersal policy setting out how patrons would be controlled and supervised once outside the premises. The Members considered that imposing a condition on the removal of the outside furniture to prevent congregation would be appropriate following the representations made about people using the furniture late into the night.

There was some consideration of the issue of waiting taxis, but the Members believed that the applicant would need to manage their premises to uphold the licensing objectives, and where they failed, then clearly the matter would be the subject of further complaint which would possibly lead to future review.

Given all the conditions offered by the applicant and imposed by the Members, it was considered that the licence should be granted as set out in the application, and they

were satisfied that future breaches of the licensing objectives could be avoided by the conditions within the licence. The Members were satisfied that the decision reflected a proportionate response to the request for longer hours of trading, whilst ensuring local residents were protected from any potential adverse impact from such hours.

	Alcohol		Live & Recorded Music		Late Night Refreshment	
	G Floor	Basement	G Floor	Basement	G Floor	Basement
Mon	10:00 to 00:00	10:00 to 18:00			23:00 to 00:00	
Tues	10:00 to 00:00	10:00 to 18:00			23:00 to 00:00	
Weds	10:00 to 00:00	10:00 to 18:00			23:00 to 00:00	
Thurs	10:00 to 00:00	10:00 to 18:00			23:00 to 00:00	
Fri	10:00 to 00:00	10:00 to 01:00		23:00 to 00:30	23:00 to 00:00	23:00 to 01:00
Sat	10:00 to 00:00	10:00 to 01:00		23:00 to 00:30	23:00 to 00:00	23:00 to 01:00
Sun	10:00 to 00:00	10:00 to 18:00			23:00 to 00:00	
Non-Standard timings	For Christmas (to include Christmas Eve) and New Year's Eve up to 01:00hrs		For Christmas (to include Christmas Eve) and New Year's Eve up to 00:30hrs).		For Christmas (to include Christmas Eve) and New Year's Eve up to 01:00hrs	

Hours premises to be open:

Ground Floor

Sunday to Saturday 10:00 to 00:30 (Christmas Eve and New Year's Eve up to 01:15)

Basement

Sunday to Thursday 10:00 to 18:30

Friday and Saturday 10:00 to 01:30

Christmas (to include Christmas Eve) and New Year's Eve to 01:30.

Conditions

1. The applicant will ensure that the premises are responsibly supervised at all time to ensure that appropriate steps are taken to promote the four licensing objectives.
2. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV Systems, operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.
3. The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
4. CCTV footage to be stored for a minimum of 31 days.
5. The management will give full and immediate cooperation and technical assistance to the police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
6. The CCTV images will record and display dates and times and these times will be

- checked regularly to ensure their accuracy.
7. Subject to Data Protection guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the police without difficulty or delay and without charge to Sussex Police.
 8. Any breakdown or system failure will be remedied as soon as practicable.
 9. A refusals register written/ electronic, shall be kept near the point of sale and all refusals shall be recorded. The DPS shall take responsibility for training staff in the use of the register and will regularly check to ensure entries are being made. The register will be made available to a representative of the Sussex Police or Licensing Authority on request.
 10. An incident book will be maintained at the premises and ensure that all staff use it to record details of any incident of crime or disorder including date and time, detail and/or descriptions of the people involved, exact location of the incident and which staff are present when the incident took place. The use of such book will ensure that all staff are aware of any ongoing problems and the persons responsible.
 11. All staff members engaged, or to be engaged, in selling alcohol on the premises will received full training pertinent to the Licensing Act 2003, specifically in regard to age restricted sales and the refusal of sales to persons believed to be under the influence of alcohol. Records of all training provided will be recorded and provided to members of the Sussex Police and Licensing Authority on request.
 12. The premises will employ two SIA approved door supervisors (when public entry events are held in the function room) to be on duty from 22:00 until 01:30 to facilitate the management of the premises and to control; the dispersal of patrons to prevent any potential noise nuisance. A risk assessment will be conducted by the DPS, or duty manager in their absence, to indicate events as medium or high risk and cognisance will be taken of any police advice.
 13. Drinking outside will not be permitted after 22:00 hours daily and all glasses and furniture shall be removed at that time.
 14. On occasions when regulated entertainment is provided, the below Noise Management Plan shall be enacted.
 15. Safety appliances and systems are regularly tested and re-certified.
 16. Notices to be displayed requesting customers to leave the premises and Wilton Road quietly.
 17. The outside seating area to be cordoned off at 22:00 hours daily.
 18. Regulated entertainment shall only be held in the function room and will cease 30 minutes prior to the cessation of the sale of alcohol in order to create a “cooling down period” to encourage phased dispersal.
 19. Public access to events with regulated entertainment shall be by pre-purchased ticket only.
 20. Challenge 25 to be operated at all times, and anyone attempting to buy alcohol who appears to be under the age of 25 will have to provide photo ID in the form of an industry approved proof of age identity card, passport or photo driving licence to prove that they are 18 or over. Sign to be displayed at point of sale – no proof of age – no sale.
 21. A noise limiting device shall be fitted to each musical amplification system in agreement and to the satisfaction of an authorised officer of the Council. The noise limiter shall be set and maintained at a level to be decided upon by an authorised officer. The operational panel shall then be secured and the noise limiter shall not be altered without the prior agreement of an authorised officer of the Council.
 22. All doors and windows shall be kept closed, except for the immediate access and egress of the public and staff, whilst live music is in progress.
 23. The applicant shall provide the licensing authority with a detailed dispersal policy

setting out measures for the control and dispersal of departing patrons.

Noise Management Plan

1. Measures to control amplified music and sound will include approval of any equipment used; controlling the bass frequency and volume so it is unlikely that complaint will occur (consultation with neighbours will be considered); performance hours will be agreed with performers and adhered to (customers and neighbours to be advised of these by way of a sign clearly visible outside the premises); location of performance space and speakers to minimise noise travelling through the building structure. In the longer term sound limiting devices will be considered if necessary to regulate volume and frequency more accurately).
2. Measures to limit the spread of noise from the premises will include keeping windows and doors closed with the exception of the doors for getting in and out of the premises. The aim is to prevent noise being audible in neighbouring dwellings after 23:00 hours.
3. Measures to control use of outside space by customers and to reduce their impact on the neighbourhood will include removal of seating outside or making it unavailable for use, posting of signs requesting quiet and respect for neighbours, regular checking of outside areas with active encouragement and enforcement of good behaviour. Customers outside must also be actively encouraged to return inside as soon as possible. Customer noise is a difficult matter, people leaving a noisy venue often carry on talking outside at the same volume, and this can be disturbing to the local community. Particularly disruptive customers will be warned and an exclusion policy applied involving Pub Watch as appropriate.
4. Information will be given to customers, hirers and performers to make them aware of the consequences of late night noise. This will feature in customer announcements during the evening and be included in external signage, advertising and communications (website, tickets etc.)
5. Monitoring of any event held will include hold hourly external walkabouts to check noise volumes and acceptability. These will include the following positions:
 - a. 52 Wilton Road
 - b. Marina – Corner of Wilton Road and Marina
 - c. Outside Brown doors – on footpath adjacent.
6. External monitoring will be recorded in writing together with any action taken as a result of findings. Regular checking at the boundary of the nearest noise sensitive properties is important. Anyone doing this will need to make that they have not been in a noise environment for a period otherwise their hearing will not be as good and the effect can mean that they will easily underestimate how loud the noise is. This is known as temporary threshold shift and will be considered in the assessment e.g. borderline noise concerns will be regarded as needing remedial action.
7. Liaison with neighbours will be undertaken to advise them of events and the provision of a phone number to contact in the event of any unacceptable disturbance. This can be by the circulation of a note to the nearest neighbours providing this information.
8. A Nominated individual will be responsible for all matter affecting and during the event. This person to be readily contactable and authorised to take any remedial action required.
9. A good relationship will be developed with responsible licensed taxi/private hire operators and customers encouraged to contact these operators whilst within the premises and in advance of closing time. All drivers will be encouraged to come to the door or into the bar to collect passengers.
10. A sympathetic and polite response to complaints will be made. Complaints will be recorded along with any action taken as a result.
11. All staff to be made aware of this action plan and its requirements.

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A written or electronic copy of this Notice will be publicly available to all parties, and published on the Council's website.