

**LICENSING & GENERAL PURPOSES COMMITTEE**  
**GENERAL LICENSING PANEL**  
30 May 2018

Minutes of the General Licensing Panel held at the Town Hall, Bexhill-on-Sea on Wednesday 30 May 2018 at 10.00am.

**There were present:**

**Members of the General Licensing Panel:**

Councillors A.K. Azad, Mrs J.M. Hughes and C.J. Saint

**Interested Parties**

**Applicant's Agent:** Mr G. Dove

**Designated Premises Supervisor:** Ms Susannah de Sherburne

**Representors:** Drs Andrew and Liz Bamji

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

Also Present: 2 members of the public.

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**LP18/06. APPOINTMENT OF CHAIRMAN**

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

**LP18/07. APPLICATION FOR A PREMISES LICENCE – THE CRAB AND LOBSTER, 13 WEST STREET, RYE.**  
**(4.1)**

Consideration was given to the report of the Executive Director that gave details of an application for a premises licence for The Crab and Lobster, Ground Floor, 13 West Street, Rye for the licensable activity of the sale of alcohol (on sales only) from Thursday to Monday between the hours of 2.00pm and 9.00pm. Six representations had been made in relation to the application in regard to the licensing objective of the prevention of public nuisance.

Prior to the commencement of the hearing, the Deputy Legal Services Manager gave advice to the Designated Premises Supervisor (DPS), Ms de Sherburne, the applicant's agent, Mr Dove and the 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.

The Panel heard from Mr Dove, who presented the case for the application. Mr Dove outlined Ms de Sherburne's previous history and experience of licensed premises management in Fulham and community integration.

The Panel also heard from the one of the representors present, Dr Andrew Bamji, who detailed his concerns on behalf of himself and the other representor, Dr Liz Bamji. Dr Bamji's concerns were primarily in relation to public nuisance in terms of noise emanating from the premises, as he lived very close by and also noise of patrons leaving the premises at a later hour than the normal retail shop hours. All letters of objection were given the Panel's full consideration.

The Panel 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.

**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 12.26pm

GLP180530.lc/lh

**Rother District Council**  
**DECISION NO: WK2018000352**

# **GENERAL LICENSING PANEL DECISION NOTICE**

**Date of General Licensing Panel Meeting: 30 May 2018**

Venue: Town Hall, Bexhill-on-Sea

Date of Decision: 30 May 2018

**NAME AND ADDRESS OF PREMISES:**

The Crab and Lobster, Ground Floor, 13 West Street, Rye, East Sussex, TN31 7ES

**NAME(S) OF APPLICANT:**

The Crab and Lobster Rye Limited

**REASON(S) FOR REPORT:**

The report had been subject to six representations on the grounds of prevention of public nuisance.

## **DECISION MADE AND REASONS FOR IT:**

The Panel was asked to consider the application for a new premises licence for the Ground Floor, 13 West Street, Rye, East Sussex. The Panel had, within their papers, the report of the Licensing Officer together with the application; proposed conditions, internal plans, photographs of the outside of the premises, map of the local area and the representations. In addition, the Panel also had regard to their own Statement of Licensing Policy dated 2016 and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

The premises was, at the time empty, had always been a commercial premises, having previously been a tea room (amongst other businesses) and had accommodation above where the Designated Premises Supervisor (DPS), Ms de Sherburne, intended to live.

The applicant had a business plan for the premises to become an Antique Shop specialising in Object d'Art.

The premises comprised of two floors, described by Ms de Sherburne as a ground floor and a basement. It was only the ground floor that was subject to the licensing application and the basement was to be used purely for storage, with no public access permitted, purely staff. The application for the sale of alcohol was for Thursday to Monday and between the hours of 2.00pm and 9.00pm, but the shop opening hours were to be from midday to 9.00pm. The sale of alcohol was therefore for less time than the shop would be open for retail browsing and sales. Also within the report were a number of conditions that had been offered by the applicant to address issues raised in the representations.

The application had been subject to six representations, which predominantly focused on potential noise from patrons emanating from both inside and outside the premises, largely due to the fact that the premises was situated in a residential area with narrow roads in the vicinity. There were also assumptions made by some of the representors that such a venture may attract vandalism and damage to properties,

although this was not supported by Sussex Police and not addressed in any of the additional conditions agreed between the parties.

In setting out their case the applicant, through their agent Mr Dove, stated that this was a new business venture and was to be a shop retailing in antiques, attempting to attract customers by enhancing the shopping experience. Mr Dove stated that there would be no bar, no external customer area and no draught alcohol available. The applicant had offered a number of conditions to ensure that the premises could operate without impacting upon the licensing objectives, albeit latterly as the Panel explained that some of those assurances were not appropriate, did not fall within the licensing regime, nor did they alleviate any fears that the licensing objectives would not be upheld.

Ms de Sherburne sought to address the evidence within the representations and stated that there had been no representations from responsible authorities. Mr Dove advised that, following submission of the original premises licence application, the applicant had heard that there was an art gallery opening nearby so decided to focus on a new business venture using a previously tried and tested option and run a retail shop for the sale of Object d'art, rather than a gallery.

Mr Dove and Ms de Sherburne then strayed into a great deal of irrelevant material that fell outside of the licensing objectives and it became obvious to the Panel and legal advisors that some more time was needed for them to be able to put forward structured representations to demonstrate to the Panel how Ms de Sherburne would uphold the licensing objectives, rather than putting forward material that did not relate to the licensing objectives.

The legal advisor also took the opportunity to confirm that the Council did not grant ancillary licences and the application was for the retail sale of alcohol in accordance with the Licensing Act 2003. He reiterated that they were advised to address the Panel on what measures would be put in place to control movement of alcohol, the ability of the public to access alcohol without purchasing goods, how alcohol related problems would be dealt with and how the licensing objectives would be upheld.

To ensure good use of time and to give Ms de Sherburne and Mr Dove a fair opportunity to present their case, the legal advisor suggested that they have a brief period of adjournment to allow them to discuss their action and then come back before the Panel with a more formulated representation. The legal advisor respectfully outlined the four licensing objectives to be focused on, that Ms de Sherburne should look to alleviate any fears the Panel might have as to how she may not be able to uphold the licensing objectives or that she would not be able to run a licensed premises promoting the four licensing objectives.

The Chair put this to Ms de Sherburne and Mr Dove and the matter was duly adjourned for 20 minutes.

On returning before the Panel, Ms de Sherburne and Mr Dove put forward the steps intended to be taken to promote the licensing objectives. Ms de Sherburne stated that she was content to offer a restriction on the number of customers allowed on the premises at any one time and suggested that 25 customers would be the maximum, with no children under the age of 16 permitted. There would be no outside area for customers to use and the hours applied for within the licence application be restricted until 9.00pm, so as not to attract any late night drinkers. Ms de Sherburne was content to have further restrictions put in place on a seasonal basis, suggesting alcohol sales between 1 April and 31 October cease at 9.00pm and out of season at

6.00pm. The Chairman asked if there was any difference suggested for public holidays and Ms de Sherburne confirmed there would be no extension requested for Bank Holidays. Ms de Sherburne explained that, to alleviate any fears with regard to dispersal of customers or noise when leaving the premises, she would be willing to put a notice alongside exit doors advising customers not to take drinks outside and to leave the premises quietly.

The Panel then asked a series of questions of Ms de Sherburne for clarification before they were addressed by the representors.

The Panel were then addressed by the representors, in particular by Dr Andrew Bamji. Dr Andrew and Dr Liz Bamji lived opposite the premises and had done so for seven years, their window being just 10 metres from the premises and Dr Bamji feared that the premises would end up as a wine bar rather than retail outlet. He further stated he was concerned as there were no shops open until 9.00pm and most closed around 5.30pm. Dr Bamji refuted Ms de Sherburne's suggestion that if the premises was full (reaching the maximum number allowed of 25 people) that they could go elsewhere, as there were no other shops open at that time. He said that should the premises morph into a wine bar or similar establishment, that would not be appropriate in the area and he feared that there would be significant disruption.

In considering the application, the Panel 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 West Street, Rye was significantly residential and given this would be the only licensed premises within that street, the measures set out within the Licensing Policy should apply.

In relation to the demand for hours applied for, the Panel carefully considered this point and felt that it was appropriate to restrict the hours from 2.00pm until 6.00pm, to keep the sale of alcohol more in line with retail shop hours and to keep the ancillary nature of the alcohol as stated by the applicant. This would assist in upholding the licencing objectives, in particular the prevention of public nuisance, as there would be no late evening drinking of alcohol or risk of any associated noise from those exiting the premises after normal retail hours, or later in the evening, when the local residents would be settling down for a quiet evening in their homes.

The Panel was reassured by the number of conditions offered by the applicant and the fact that the additional conditions agreed with Sussex Police were adopted in full. However, on balance, the Panel felt that it was appropriate to impose additional conditions to prevent breaches of the public nuisance objective. The Panel were satisfied on balance that Dr Bamji would probably suffer from noise without appropriate protective measures.

Given all the conditions offered by the applicant and imposed by the Panel, it was considered that the licence should be granted with the imposition of additional conditions and a reduction in the hours as stated above. The Panel was satisfied that any future breach of the licensing objectives could be avoided by the conditions within the licence and that the decision reflected a proportionate response, taking into account the representations from local residents and the upholding of the licensing objectives.

**Retail sale of alcohol (on premises)**

Thursday to Monday 2.00pm to 6.00pm

**The Conditions agreed with Sussex Police shall be adopted in full as follows:**

- 1) CCTV: Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System, (PSDB publication 09/05) 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.

The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

CCTV footage will be stored for a minimum of 28 days.

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.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

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.

Any breakdown or system failure will be notified to the police immediately and remedied as soon as practicable.

- 2) All staff will be trained in licensing law and the responsible sale of alcohol prior to commencement of selling alcohol; a staff training manual will be kept and maintained at the premises and made available for inspection by police licensing officers and local authority officers on request. Refresher training will be given to all staff at least every six months by the DPS or an accredited trainer.
- 3) An incident book will be kept and maintained at the premises and made available for inspection by police, police licensing officers and local authority officers on request. This book shall solely be used for the purpose of recording incidents.
- 4) A refusals register will be kept and maintained at the premises and made available for inspection by police, police licensing officers and local authority officers on request.
- 5) All staff shall have written authorisations from the Designated Premises Supervisor to permit them to sell alcohol.
- 6) A 'Challenge 25' policy shall be in operation at the premises and staff will be suitably trained to implement this policy. The only forms of ID that will be accepted are a passport, a photographic driving licence or a Proof of Age card bearing the 'PASS' hologram.

- 7) Alcohol products shall be restricted to wine, champagne, spirits, bottled beer and bottled cider. No draught alcohol products shall be available.

**Additional conditions**

- a) The prevention of crime and disorder

Alcohol products shall be restricted to wine, champagne, bottled beer and cider.

- b) Public Safety

Customers will not be permitted to take alcohol outside the premises at any time.

Patrons will not be allowed to congregate outside the premises to smoke and vape.

Within the premises there should be appropriate signage near to the exit, warning their customers that they must leave the premises quietly and to not congregate outside.

There shall be no more than 25 customers inside the premises at any one time.

- c) Prevention of public nuisance

The consumption of alcohol shall not be permitted outside the premises.

No draught alcohol products shall be available.

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