

## LICENSING AND GENERAL PURPOSES COMMITTEE - GENERAL LICENSING PANEL

24 January 2020

Minutes of the Licensing and General Purposes Committee - General Licensing Panel meeting held at the Council Chamber, Town Hall, Bexhill-on-Sea on Friday 24 January 2020 at 10.00am.

**There were present:**

### Hearing 1

#### Chapter Two (formerly called Two Trees)

##### **Members of the General Licensing Panel:**

Councillors G.C. Curtis, Mrs S. Hart and A.S. Mier.

##### **Interested Parties:**

**Applicant:** Mrs Jenifer Talbot

**Applicant's Son:** Mr Daniel Talbot

**Representors:** Mr R.G. and Mrs P. Hinsley

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

### Hearing 2

#### Bell Hotel, Ticehurst

##### **Members of the General Licensing Panel:**

Councillors G.C. Curtis and A.S. Mier.

##### **Interested Parties:**

**Manager, Bell Hotel:** Howard Canning

**Applicant's Solicitor:** Jon Wallsgrove

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

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### Hearing 1

#### LP19/13 **APPOINTMENT OF CHAIRMAN**

Councillor Mrs S. Hart was duly appointed as Chairman of the Panel for the hearing at the previously adjourned meeting on 22 October 2019. Councillor Mrs Hart reconvened the hearing, as Chairman.

LP19/14      **MINUTES**

The Chairman was authorised to sign the Minutes of the meeting of the General Licensing Panel held on 3 December 2019 as a correct record of the proceedings.

LP19/15      **REPORT OF THE EXECUTIVE DIRECTOR - APPLICATION FOR A NEW PREMISES LICENCE**

Consideration was given to the report of the Executive Director that gave details of an application for a premises licence for Chapter Two (formerly called Two Trees), 37 Cooden Sea Road, Bexhill-on-Sea, East Sussex for the licensable activity of the retail sale of alcohol (on and off the premises), Tuesday to Saturday 11:00hrs – 21:00hrs and Sunday 11:00hrs – 18:00hrs; the Applicant had since withdrawn the application for sales off the premises. One representation had been made in relation to the application in regard to the licensing objective of the prevention of public nuisance. This hearing had been reconvened following the adjournment on Tuesday 22 October 2019 in order for a noise report to be produced by the Applicant for consideration by the Panel and Interested Parties.

Prior to the commencement of the meeting, the Deputy Legal Services Manager gave advice to the Applicant and Interested Parties 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 Applicant addressed the Panel to outline her proposal to install an insulated false ceiling below the current ceiling in the café to prevent noise breakout. The adopted procedure was followed and all parties present at the hearing were invited to address the Panel.

The Panel deliberated on 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.

LP19/16      **APPOINTMENT OF CHAIRMAN**

Councillor Curtis was duly appointed as Chairman of the Panel for The Bell Hotel, High Street, Ticehurst hearing.

LP19/17      **APOLOGIES FOR ABSENCE**

An apology for absence had been received from Councillor A.K. Jeeawon.

**REPORT OF THE EXECUTIVE DIRECTOR - APPLICATION TO VARY A PREMISES LICENCE**

Consideration was given to the report of the Executive Director that gave details of an application for a variation of a premises licence for The Bell Hotel, High Street, Ticehurst for the licensable activity of the retail sale of alcohol on and off the premises Monday to Saturday 11:00hrs – 00:00hrs and Sunday 11:00hrs – 22:30hrs, Christmas Eve and New Year's Eve until 01:00hrs. In addition, for the sale of alcohol on the premises to hotel residents and their bona fide guests, 24 hours per day, seven days per week and for the addition of late night refreshment Monday to Saturday 23:00hrs to 00:00hrs and for hotel residents and their bona fide guests 23:00hrs to 05:00hrs Monday to Sunday.

Four representations had been made in relation to the application in regard to the licensing objective of the prevention of public nuisance, but one had since been withdrawn.

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 Panel.

The Panel heard from Mr Mark Randolph, Senior Environmental Health Licensing Officer, who presented the report of the Executive Director detailing the application and then from Mr Jon Wallsgrave, the Applicant's Agent, who presented the case for the application. All letters of objection and support 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 as set out in Appendix 2.

**CHAIRMAN**

The meeting closed at 12.40 pm

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Rother District Council  
 DECISION NO: WK/201906897

### GENERAL LICENSING PANEL DECISION NOTICE

**Date of General Licensing Panel Meeting: 24 January 2020**

Venue: Town Hall, Bexhill-on-Sea

Date of Decision: 24 January 2020

<b>NAME AND ADDRESS OF PREMISES:</b>	Chapter Two (formerly called Two Trees), 37 Cooden Sea Road, Bexhill-on-Sea, East Sussex, TN39 4SJ
<b>NAME(S) OF APPLICANT:</b>	Mrs Jenifer Talbot
<b>REASON(S) FOR REPORT:</b>	The report had been subject to one representation on the grounds of prevention of public nuisance.

### DECISION MADE AND REASONS FOR IT:

#### Reasons for the Decision

The Panel was asked to consider the application for a new Premises Licence for Chapter Two (formerly called Two Trees), 37 Cooden Sea Road, Bexhill-on-Sea, TN39 4SJ. 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, the representations and the recent Noise Consultant's Report. 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 hearing had initially started on 22 October 2019, but had been adjourned to allow the Applicant to commission a Noise Consultant's report to evaluate the movement of noise from the ground floor area to the residential flat above. The Applicant had failed to outline any proposals to ameliorate potential noise from patrons, and the report was considered an essential document in assisting the Panel in making a decision under Section 18 of the Licensing Act 2003. There had been one representation made in response to the application by the two residents living above the premises. They detailed evidence of noise disturbance they had suffered from activity within the premises. In absence of any meaningful proposal from the Applicant about noise attenuation measures, the report was considered critical.

The hearing was resumed on 24 January 2020 and the Panel had the benefit of the Noise Consultant's report, which had been distributed prior to the hearing. The report had concluded that the premises were of a dated construction, and that noise attenuation properties were relatively poor. It was stated that noise would certainly penetrate the upstairs flat, but this could be controlled by installing a false ceiling with insulation layers to a specified standard. The Panel asked the Applicant whether she was prepared to install the ceiling in accordance with the report. It was said that it would take some time to install the ceiling owing to the cost, but Members of the Panel emphasised that they would not be able to grant the licence without such a

measure in place. The Applicant stated that currently the premises were open for business, that they were currently not selling alcohol but instead inviting customers to bring their own. It was explained that if the licence was granted, the condition would be enforceable and any sales taking place without the condition being complied with, could render the Applicant open to prosecution or the subject of a Review application under the Act.

The Applicant stated she hoped to have the ceiling installed by Easter.

At the initial hearing in October, the representors had stated that they were concerned that patrons would cause disturbance to their enjoyment of their home. They were concerned that people potentially loitering outside the venue may disturb them, but the most important issue for them was the potential disturbance from customers in the premises throughout the evening. They stated at both hearings that they did not want to prevent the premises from opening, or from being an asset to the community, but that they wanted some protections in place to ensure they would not be disturbed.

Members of the Panel were conscious that in making their decision they had to balance the commercial ambitions of the premises against the concerns from those living closest to the venue. The Panel was satisfied, on balance that the potential noise disturbance was a real issue, but that the Noise Report had identified measures that could be put in place to attenuate the potential nuisance. Whilst Members of the Panel were disappointed that the Applicant had not been more positive about when the ceiling would be installed, they were satisfied, on balance that the condition attached requiring the installation would ensure that at the time the premises began selling alcohol, protection would be in place to prevent potential public nuisance. They were satisfied that it was appropriate to impose conditions requiring the management of the premises to prevent customers from congregating outside the premises causing nuisance. The Panel was satisfied that the conditions agreed with Sussex Police, and those imposed by them after the hearing would be sufficient to prevent breaches of the licensing objectives.

### **Decision Made**

Premises Licence be granted as below:

Retail sale of alcohol on the premises, Tuesday to Saturday 11:00hrs – 21:00hrs and Sunday 11:00hrs – 18:00hrs.

#### **Conditions agreed with Sussex Police**

- (1) Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to their meal. Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.
- (2) The Premises Licence Holder shall ensure that all staff members engaged, or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- The lawful selling of age restricted products
  - Refusing the sale of alcohol to a person who is drunk
- a) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed six months, with the date and time of the verbal reinforcement/refresher training documented.
- b) All such training undertaken by staff members shall be fully documented and recorded and signed by both the employee and the Designated Premises Supervisor (DPS). All training records shall be kept on the premises and made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
- c) A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.
- (3) The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
- a) Signage advertising the age verification or 'Challenge 25' policy will be displayed in prominent locations in the premises.
- (4) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least fortnightly.

The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the Police. An incident will be defined as being one which involves an allegation of a criminal offence.

Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.

Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept at the premises for a minimum of 24 months.

#### **Additional Conditions**

- Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

- Add a Metal Frame System below existing ceiling. (We recommend the British Gypsum Casoline System.) Add 100mm insulation in the newly created void. This can be any insulation. It does not need to be an acoustic insulation. Make sure there is a minimal 25mm air gap above the insulation to the underside of the old ceiling. Chicken wire may be used to hold up the insulation. Close the ceiling with 2 x layers 15mm sound or fire rated plasterboard. Seal all gaps. Acoustic mastic is not necessary but may be used.
- No customers shall be allowed to take alcohol outside the premises, either in bottles or open vessels.
- The management of the premises shall regularly monitor the outside of the front of the premises to ensure that customers do not cause nuisance to the neighbourhood.

### **Rights of Appeal**

Under the provisions of Section 181 and Schedule 5 of the Licensing Act 2003 there is a right of appeal against the decision of the Licensing Committee if you are aggrieved at the outcome. This right of appeal extends to the Applicant in the case of a refusal or restrictions on the licence, or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations where the licence has been granted, or that relevant conditions have not been imposed upon the licence. Full details of all the rights of appeal can be found within Schedule 5 of the Act.

Any appeal should be made to the Magistrates Court, Edward Street, Brighton, within 21 days from the date of notification of the decision. You must contact the Magistrates Court to establish the formal procedure for the appeal.

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

Rother District Council  
 DECISION NO: WK/201906897

### GENERAL LICENSING PANEL DECISION NOTICE

**Date of General Licensing Panel Meeting: 24 January 2020**

Venue: Town Hall, Bexhill-on-Sea

Date of Decision: 24 January 2020

<b>NAME AND ADDRESS OF PREMISES:</b>	Bell Hotel, High Street, Ticehurst, East Sussex, TN5 7AS
<b>NAME(S) OF APPLICANT:</b>	The Bell in Ticehurst LLP
<b>REASON(S) FOR REPORT:</b>	The report had been subject to three representations on the grounds of prevention of public nuisance.

#### DECISION MADE AND REASONS FOR IT:

##### Reasons for the Decision

The Panel was asked to consider the application for a variation to the Premises Licence for The Bell, High Street, Ticehurst. The Panel had, within their papers, the report of the Licensing Officer together with the variation application, proposed conditions, internal plans, photographs of the outside of the premises, map of the local area and the four original 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 Panel initially heard from the Licensing Officer who outlined the detail of the variation application. In essence, the application represented an opportunity to regularise some aspects of the operation of the venue as a hotel, given the recent investment and future plans, to increase the scale of the hotel business. There did appear to be some misunderstandings with interested parties regarding the existing permitted hours under the existing licence. It was clear that alcohol was permitted to be sold until midnight already, even though the premises often chose to close before that time. The variation application did not seek to extend that terminal hour of midnight. It did include an application to include the provision of mini-bars within hotel rooms, together with the facilities to offer hot drinks within rooms. Both requirements needed specific provisions under the Licensing Act 2003, which had not been requested in earlier applications in 2005 at grant, or in 2012 when the previous variation was considered. It was apparent from the representations that some local residents had concerns about this application, leading to the submission of letters that detailed historic issues with parking, and reports of a single complaint made in August 2019 over a noise incident.

In addressing the Panel, the Solicitor for the Applicant, Mr Wallsgrove, clarified that plans were underway to extend the premises by creating additional restaurant capacity. Given the venue had become renowned for the quality of the food, they were seeking to extend the size of the restaurant. Additionally, bedroom capacity

was being increased in the hotel from 11 to 17, which gave rise to the nature of this particular variation application. The anomaly within the 2003 Act that required mini-bars to be incorporated within the licence, had to be addressed if they were to make the hotel attractive to paying customers. Similarly, the fact that rooms would have tea and coffee facilities available throughout the night, meant that there needed to be provision in the licence to have late night refreshment (which included hot drinks) on the licence. It was not the case that the kitchen was to remain open and available throughout the night for customer orders.

Mr Wallsgrove added that whilst the submitted plans represented a 'best case' scenario for the operator, those plans had yet to be approved by the Planning Department. Accordingly, the plans within the variation application may, at a future stage, need amending to reduce the capacity. This would be done at the planning approval stage and the reduction in licensable area would be subject of a future minor licensing variation, if necessary.

The Panel asked a series of questions to clarify the full extent of the application. Given that none of the Interested Parties had attended, the Panel had regard to the letters of representation that had raised issues about potential noise and the reported incident in August 2019. The Panel asked for an explanation of the events in respect of the complaint, and were told that the Manager had spoken to the particular guest who was causing the noise. It was said the matter had to be handled respectfully, and whilst this did take a little time, it was resolved. In response to the point raised in the report that nobody had answered the phone, it was stated that the night manager could not answer the phone as he was dealing with the issue itself. The Panel accepted that the explanation was an acceptable response to the complaint, and was satisfied, on balance, that measures were in place to effectively deal with potential late night disturbance, as detailed in several of the representations.

In considering the application, Members of the Panel were asked to grant the variation application notwithstanding the concerns raised by the Interested Parties. The Panel had to consider, in making their decision, whether the Applicant could uphold the licensing objectives, and whether it was appropriate to attach conditions to the licence to ensure that the objectives were upheld. On balance, the Panel was satisfied that the Applicant had demonstrated measures that would ensure that potential noise late into the night would be controlled. The Panel was satisfied, on balance, that the provisions for late night refreshment and alcohol within hotel bedrooms would not have any noticeable effect upon the local community to the extent that the public nuisance objective would be undermined. On balance, the Panel did not consider that these extra provisions within the variation application would disturb local people or undermine the licensing objectives. The Panel was happy to attach to the licence several conditions agreed between the Applicant and Sussex Police, but did not consider it appropriate to impose any further additional conditions.

### **Decision Made**

Variation to Premises Licence be granted as below:

#### **Retail sale of alcohol - On sales and Off sales**

Monday to Saturday 11:00hrs – 00:00hrs and Sunday 11:00hrs – 22:30hrs, Christmas Eve and New Year's Eve until 01:00hrs.

## Retail sale of alcohol - On sales

To hotel residents and their bona fide guests, 24 hours per day, 7 days per week.

### Late night refreshment

- Monday to Saturday 23:00hrs to 00:00hrs.
- For hotel residents and their bona fide guests 23:00hrs to 05:00hrs Monday to Sunday.

### Premises layout

The premises layout within the variation application by the plan no 51707-L-03 is agreed. Any changes to this plan following planning consultation will be subject to a minor variation application with a correct up to date plan.

In addition to existing conditions attached to the premises licence, there will be added:

#### **Additional conditions agreed with Sussex Police**

##### Training/Authorisation:

- a) The Premises Licence Holder shall ensure that all staff members engaged, or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products: "The lawful selling of age restricted Products" and "Refusing the sale of alcohol to a person who is drunk".
- b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed six months, with the date and time of the verbal reinforcement/refresher training documented.
- c) All such training undertaken by staff members shall be fully documented and recorded and signed by both the employee and the Designated Premises Supervisor (DPS). All training records shall be kept on the premises and made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
- d) A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.

##### Incident Log:

- a) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least fortnightly.
- b) The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the Police. An incident will be defined as being one which involves an allegation of a criminal offence.
- c) Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.
- d) Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant.

The log will be kept at the premises for a minimum of 24 months.

Challenge 25:

- a) The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.
- b) Signage advertising the age verification or 'Challenge 25' policy will be displayed in prominent locations in the premises.

**Rights of Appeal**

Under the provisions of Section 181 and Schedule 5 of the Licensing Act 2003 there is a right of appeal against the decision of the Licensing Committee if you are aggrieved at the outcome. This right of appeal extends to the Applicant in the case of a refusal or restrictions on the licence, or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations where the licence has been granted, or that relevant conditions have not been imposed upon the licence. Full details of all the rights of appeal can be found within Schedule 5 of the Act.

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