

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

NAME AND ADDRESS OF PREMISES:	Chapter Two (formerly called Two Trees), 37 Cooden Sea Road, Bexhill-on-Sea, East Sussex, TN39 4SJ
NAME(S) OF APPLICANT:	Mrs Jenifer Talbot
REASON(S) FOR REPORT:	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.