

**MINUTES OF THE PREMISES/PERSONAL LICENCES SUB-COMMITTEE 'A'****HELD ON 8 APRIL 2015 AT 10.00 A.M. IN THE COUNCIL CHAMBER, WEELEY****Present:** Councillors Casey, Powell and Pugh**Stand-by Member:** Councillor D C Skeels**Also Present:** Councillor M J D Skeels**In Attendance:** Licensing Manager (Simon Harvey), Solicitor (Linda Trembath), Senior Democratic Services Officer (Ian Ford) and Licensing Officer (Michael Cook)**11. ELECTION OF CHAIRMAN OF THE SUB-COMMITTEE**

In light of the casual vacancy caused by the replacement of Councillor Colbourne as a member of the Sub-Committee by Councillor Pugh, it was moved by Councillor Casey, seconded by Councillor Pugh and **RESOLVED** that Councillor Powell be elected Chairman of the Sub-Committee for the remainder of the 2014/2015 Municipal Year.

**12. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**13. MINUTES**

The minutes of the meeting of the Sub-Committee held on 30 October 2014 were approved as a correct record and signed by the Chairman.

**14. DECLARATIONS OF INTEREST**

There were none.

**15. LICENSING ACT 2003 – APPLICATION NO: 15/0078/PREMGR - FOR THE GRANT OF A PREMISES LICENCE – THE PINK PALACE HOTEL LIMITED, 11-13 MARINE PARADE EAST, CLACTON-ON-SEA**

The Sub-Committee had before it for its consideration, as set out in item A.1 of the Report of the Corporate Director (Public Experience), an application that had been submitted by the Pink Palace Hotel Ltd, for the grant of a Premises Licence in respect of the above premises.

The Council's Licensing Manager briefed the Sub-Committee on the application being considered, summarised the salient points of the application including, principally, that it sought permission to allow the sale of alcohol, the provision of late night refreshment and the provision of regulated entertainment, as detailed in Section 3.0 of item A.1 to the report. Mr Harvey informed all parties present that the application, operating schedule and the location plan were set out in full on pages 16 to 33 of the report and that the premises was described in the report as: "*a hotel with nine holiday letting apartments and eight bed and breakfast rooms. They have a small residential bar for customers staying at the hotel and would like to sell alcohol inside the premises and music being played for entertainment background noise (amplified).*"

*The Applicant had also put that they would like to open all year round and did not want to be classified as a pub as they will be having a tearoom, restaurant and bar.*"

He also advised the Sub-Committee that seven letters of representation had been received from local residents, which objected to the application and which were set out in full on pages 34 to 40 of the report. The Licensing Manager felt that it would be reasonable and proportionate to sum up that all seven letters had expressed concerns about the potential noise from customers using the small patio area late at night and the potential for noise escape from music and customer noise from inside the hotel if the patio doors were left open. A number of the representations sought a reduction in the hours that the patio area could be used from 23.00 to 22.00 hours, or that the patio area should not be allowed to be used. Concerns had also been expressed about the terminal hour for regulated entertainments of recorded and live music.

Mr Harvey informed all parties present that Essex Police and Essex County Council's Safeguarding Service had each advised that they had no objections to the application and that there had been no other representations received from any other Responsible Authority entitled to make representation under the Licensing Act 2003, including the Planning Authority, the Environmental Health Authority and the Fire and Rescue Service.

The Licensing Manager also drew the Sub-Committee's attention to the relevant parts of the Council's Statement of Licensing Policy and Home Office Section 182 Guidance in respect of the application, which were set out in the Officers' written report on pages 13 and 14.

Mrs Charmaine Gibson, the Manager of the Hotel, her father, Mr Gibson and Ms Louise Moore, the Designated Premises Supervisor, spoke in support of the application with opening remarks, referring to the application and variously stated in general terms that:

- (i) The garden area would not be used after 23.00 hours when the patio doors would be closed and smokers would be requested to go outside the front of the premises;
- (ii) The premises would be run as a family-friendly hotel and would not be open to non-residents, with the exception of occasional privately-booked parties such as weddings; and
- (iii) Mrs Gibson lived on the ground floor of the premises with two young children and shared the representatives' concerns about noise.

Mr Brian Crooks, Mr Chris Greenslade and Mrs Edmonds, representatives, asked questions of the Applicants in respect of: (1) why had the garden area been included in the application; (2) how would the level of live music be kept under control; and (3) why were there extra permissions on the Licence and, if they were not needed, could these be excluded.

In response, the Applicants said that: (1) the garden area had been included for the benefit of hotel patrons who may wish to take alcohol out into the garden during the daytime. The doors to the patio area would be kept closed at night though it was a designated fire escape route; (2) Live music would only be used on infrequent occasions, such as weddings; and (3) The extra permissions were required for special occasions, such as weddings and New Year's Eve celebrations. Neighbours would be informed in advance when a special event was to take place.

Councillor Casey asked questions of the applicants in respect of: (1) what security was there in place to prevent the public (who may be inebriated) from entering the Hotel in the evenings; and (2) what was there in place to prevent noise pollution from live music events.

In response, the Applicants said that: (1) the Hotel would not be open to the general public, that friends and family of hotel guests would be signed in and recorded in a Visitors' Book and would be required to leave if they caused a problem; and (2) the

building was insulated and there was double-glazing installed and the sound levels would be kept low as part of the Hotel's family-friendly policy.

Councillor Pugh asked the Applicants about amplified music at the premises, to which, the response was that there were only two speakers in the premises and the sound level would be kept down as the Applicants shared residents' concerns about loud noise and antisocial behaviour arising from other local premises.

Councillor Powell asked questions of the Applicants in respect of: (1) who would use the garden area; (2) would noise emanate from the premises; (3) were the staff appropriately trained; (4) what ventilation was there in the premises; (5) how many people could use the garden area at any one time; (6) why had the Applicants applied for so much on the Licence; (7) why were the Applicants applying to sell alcohol off the premises; and (8) what provision was there for parking cars.

In response, the Applicants said that: (1) Guests who chose to smoke, and only in the evenings. If they created too much noise then they would be required to go outside the front of the Hotel; (2) only whilst the patio doors were open for ingress and egress; otherwise the doors would be kept closed; (3) Yes; (4) air vents, ceiling mounted extractor fans and extractor fans on lights; (5) Not many, as the garden area was small; (6) they had followed the advice given by the Licensing Authority to submit the application so that they did not have to submit Premises Licence Variation Applications or Temporary Event Notices every time the Hotel held a private event, which would be an extra expense; (7) No intention to sell to the general public and only needed in order to sell alcohol to a guest who, for example, may have chosen to go out for the day; and (8) Nine spaces at the front of the building.

In response to question (6) above, the Licensing Manager reminded Members that the ethos of the Licensing Act 2003 was that it was permissive and that guidance encouraged applicants to apply for what they might conceivably want on the Licence and not necessarily what they would use and avoid the need for and extra expense of Premises Licence Variation Applications.

Councillor Pugh and Councillor Casey asked questions of the Licensing Manager in respect of: (1) why the supplier of the fruit machine also supplied the licence; and (2) did the public have a general right to enter a hotel.

In response, the Licensing Manager said that: (1) this was standard practice; and (2) this was down to the policy of the individual hotel.

Mr Brian Crooks, Mr Chris Greenslade and Mrs Edmonds then spoke in respect of their representations on the application, which included the following concerns:

- (i) That the front of the Hotel was not so good for people wishing to smoke, due to the cars being parked there;
- (ii) The rear garden area being used at night and the potential for noise;
- (iii) That any general public were allowed in;
- (iv) That if the current owners of the Hotel left and sold-up; would any new owner automatically be granted the licence with all its permissions?;
- (v) If it was the case that no review process could be initiated until a licence condition was breached;
- (vi) That making a noise complaint to Environmental Services was a long-winded process; and

(vii) That, other local hotels could be disturbed by noise arising from The Pink Palace.

In response to some of the issues raised above, the Licensing Manager informed all parties present that:

- (i) The transfer of a Premises Licence was a simple process, whereby all existing permissions and restrictions were automatically transferred and that only Essex Police could object to a Transfer application;
- (ii) The review process was in place as a safeguarding mechanism, which could be initiated by the Licensing Authority, the Responsible Authorities and the public. An alleged breach of a licence condition or alcohol related anti-social behaviour or crime and disorder emanating from a licensed premises could trigger a review but also so could a complaint about ongoing noise issues for example. Noise complaints to the Council's Environmental Services required evidence to back-up the complaint such as through the keeping of a diary of the dates and times of the disturbance. In respect of the review process, this was a publicly advertised process to enable other interested parties to be part of the review if they had also been affected by noise or crime, for example; it was a shorter procedure than making a statutory noise complaint but also required evidence to support it; and
- (iii) There had been no objections received to the application from the neighbouring Hotels.

The Chairman then asked the Applicants if they wished to sum up their application by way of a closing statement. They stated that they were happy for residents to contact them to discuss any issues and would be happy to provide a contact telephone number to the residents so that they could do so easily and directly. The Chairman then stated that if there were no other points and all parties were happy that they had said what they wanted to say, then Members would now leave the room whilst they considered their decision. All parties indicated that they had said all they wanted to say.

The Sub-Committee then **RESOLVED** that the public be excluded from the meeting, pursuant to Section 100A(4) of the Local Government Act 1972, during the period when the Sub-Committee would be deliberating and considering its decision, on the grounds that such deliberations involved the likely disclosure of exempt information, as defined in Paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.

Members of the Sub-Committee then withdrew from the meeting to deliberate and consider its decision. The Solicitor and Senior Democratic Services Officer were asked to accompany Members to give advice on any legal points raised and to record the decision.

Following such deliberations, other Officers, Members and members of the public were readmitted to the meeting. The Solicitor reported that she had not provided the Sub-Committee with any legal advice on this occasion.

It was unanimously **RESOLVED** that the decision of the Sub-Committee be as follows:

*"The Sub Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the Applicant, the representations received from concerned residents along with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.*

*The decision of the Sub-Committee is to grant this application, subject to the imposition of certain conditions.*

*In addition to any mandatory conditions and any conditions that are consistent with the Operating Schedule, the following conditions will apply in order to satisfy the relevant Licensing Objective.*

*In respect of the Licensing Objective for the Prevention of Public Nuisance, the rear garden area shall not be used by patrons of the premises, or their guests, after 22.30 hours, at which time the patio doors will be kept closed.*

*Reason:*

*This condition has been imposed in order to help protect the amenities of local residents and prevent public nuisance. The decision will be confirmed in writing to all parties and they will also be informed that they have a right of appeal to the Magistrates' Court within a period of 21 days beginning with the date the Applicant is notified of the decision by notice."*

The meeting was declared closed at 11.32 a.m.

**Chairman**