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Premises / Personal Licences Sub-Committee

17 November 2023

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON FRIDAY, 17TH NOVEMBER, 2023 AT 10.00 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Casey, A Cossens, Kotz and Wiggins
In Attendance:	Keith Simmons (Head of Democratic Services and Elections), Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Keith Durran (Committee Services Officer), Emma King (Licensing Officer) and Chloe Blackwell (Licensing Enforcement Officer) Councillor I Henderson (Ward Councillor Representing), Steve Bennett, (Essex Police), Ray Dowsett (Landlord) and Alex Wick (License Holder)

12. CHAIRMAN FOR THE MEETING

It was moved by Councillor Cossens, seconded by Councillor Casey and:

RESOLVED – That Councillor Wiggins be elected as Chairman for the meeting.

13. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence, or substitutions.

14. DECLARATIONS OF INTEREST

There were no declarations of interest by Councillors in relation to any item on the agenda for this meeting.

15. REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) REVIEW OF PREMISES LICENCE - ENTERPRISE HARWICH BAR LTD

The Sub-Committee heard from the Head of Democratic Services and Elections, who, as the representative of the Licensing Authority, introduced the matter of a review application under Section 51 of the Licensing Act. The application pertained to the premises known as Wicks Bar, managed by Enterprise Harwich Bar Limited, with Mr. Wicks identified as the designated premises supervisor. The application, outlined in the provided documents, had been joined by various parties, including the Licensing Authority, Essex Police, and six additional representations from members of the public.

The Sub-Committee, having received and reviewed the relevant papers, was tasked with considering the application and the representations made. The Head of Democratic Services and Elections emphasized the importance of following the established procedure outlined in Appendix H, to guide the discussion and facilitate a decision regarding the approach to their powers following the review. The presentation concluded with the acknowledgment of the committee's awareness of the review and the expectation that they would proceed in accordance with the specified procedures and each interested party and the licence holder were encouraged to ask questions.

The Sub-Committee heard from Rebecca Duff Cole of the Environmental Protection team acting as a responsible authority who's representation, she then gave the representation. The representation sought to restrict the permission for live, recorded, and amplified music due to noise nuisance complaints. Wicks's Bar, licensed for alcohol sale and late-night refreshment, faced allegations of noise disturbances affecting nearby residential properties.

The review focused on the Licensing Act's Prevention of Public Nuisance objective. Mr. Alexander Wicks, the Designated Premises Supervisor, faced complaints of loud music with heavy bass, and disruptive behaviour. Despite multiple warnings, noise abatement notices, and breaches, Mr. Wicks failed to address the issues adequately.

The Environmental Protection team substantiated a statutory noise nuisance, and served a noise abatement notice. Breaches had occurred on three occasions, leading to the decision to review the premises licence. Complaints included loud music, anti-social behaviour, and operational violations, impacting residents' sleep, work, and safety.

Despite some initial improvements, subsequent breaches prompted the review application. The Environmental Protection team's efforts to work with Mr. Wicks proved unsuccessful, leading to the conclusion that permanent enforceable conditions were necessary to mitigate further noise nuisances. The team proposed restricting amplified, recorded, and live music at the premises.

Following investigations as a result of complaints about noise revealed seven formal and two anonymous complaints, with witness statements emphasizing the adverse impact on residents. Mr. Wicks's management of the amplified music raised concerns, as he failed to address complaints and implement promised changes, leading to the loss of confidence in his ability to manage noise issues effectively.

Members of the Committee and Interested parties asked questions that they felt relevant before moving on to the next part of the presentation which was from Steve Bennett (Essex Police).

Mr Bennett stated that there had been a significant number of calls and complaints from the public since the premises opened in May. The venue had failed to uphold crime and disorder and public nuisance objectives by repeatedly breaching relevant legislation. From Essex Polices' standpoint, the venue's management did not co-operate with the authorities and, disregarded advice and enforcement activities despite an action plan submitted on 24th July 2023. He expressed the view that the premises had been poorly managed for some time. On considering the concerns raised, Essex Police supported the Environmental Health Team's recommendation to revoke the licence. Although acknowledging circumstances appeared to be changing, Essex Police maintained their position in relation to revocation of the licence.

Presenting on behalf of Essex Police, Steve Bennett noted the issues around noise raised by Rebecca Duff Cole and highlighted significant crime and disorder instances, including 22 separate calls, mainly after midnight, involving fights, disorder, drug dealing, nuisance, and damage. Essex Police fully endorsed the revocation request and concluded the submission, inviting any further questions from members of the Committee and other parties present.

Chloe Blackwell (Licensing Enforcement Officer), representing the Licensing Authority, addressed the Sub-Committee, supporting the application for review submitted by Tendring District Council's Environmental Protection Team. The basis for this support was the failure to meet the licensing objectives, particularly those related to the prevention of public nuisance and crime and disorder.

Enterprise Harwich Bar Limited, the licence holder, and Mr. Wicks, the designated premises supervisor (DPS), held the current premises licence since May 2023. Ms. Blackwell reported receiving 35 complaints starting from 15th May 2023, citing issues such as loud music, unlicensed activities, and antisocial behaviour including fights, shouting, and drug misuse.

Despite several visits and a warning letter sent to Mr. Wicks on 19th June 2023, addressing unlicensed activities and playing music beyond 23:00 hours, issues persisted, including breaches of license conditions and ongoing problems with antisocial behaviour.

Ms. Blackwell noted that Mr. Wicks had consistently failed to heed relevant authorities advice throughout, and compliance efforts were only taken due to the ongoing review. Expressing her professional judgment, she highlighted the risk of allowing the premises to continue, emphasizing concerns about poor control in the running of the premises, late closing, and increasing antisocial behaviour. She lacked the necessary trust that Mr. Wicks would heed further advice.

Members of the Committee asked questions about revocation of the licence and the potential for conditions to be added if the licence was not revoked.

Ms. Blackwell whilst recommending revocation of the premises licence said that if the Committee disagreed, a list of conditions could be provided and discussions had already been had in relation to those conditions to support the licensing objectives.

Additionally, on 14th November 2023, Mr. Ray Dowsett the landlord of the property and Mr. Robert Beke, an associate of Mr Dowsett, had an appointment with the Licensing Authority. Mr. Wicks did not attend, and discussions proceeded in his absence. Following that meeting, Mr. Dowsett advised that they would be submitting a change of DPS with the view of transferring the licence to a new holder.

On 15th November 2023, Mr. Dowsett submitted the change of Designated Premises Supervisor (DPS) application and a transfer application in the name of Flying Trade Group PLC. At the review meeting they indicated no intention to withdraw these applications, stating the premises would remain closed until the New Year for rebranding. Mr Dowsett also submitted a list of amended conditions to be attached to the licence. During this period, a noise management plan would be implemented.

Members of the Committee were pleased to hear that discussions had been taking place and asked questions about the discussion and possible conditions if they were minded not to revoke the licence.

The Sub-Committee heard from Councillor Ivan Henderson, who served as Ward Councillor for the Harwich and Kingsway Ward, who was representing the residents in the review.

Councillor I Henderson began by noting the presence of several other establishments within his ward, emphasizing that he had not observed issues comparable to those reported by his residents concerning a specific establishment. In instances where problems had arisen in other premises, there had consistently been full cooperation with licensing offices and the police. Councillor I Henderson stressed that, until now, he had encountered no issues with other establishments operating under similar conditions.

Referring members to his statement on page 139 of the agenda, Councillor I Henderson expressed relief as a ward Councillor that the review was underway. He stated that over the last six months, his residents had experienced an unacceptable level of disturbance from the premises, resulting in frequent complaints, and that these complaints encompassed unbearable noise levels from loud music, incidents of antisocial behaviour, fights, shouting, drug misuse, and violations of licensing conditions.

Despite attempts to collaborate with the establishment, the issues persisted, significantly impacting the quality of life for residents. Witnesses provided comments highlighting the negative effects on their lives, such as lack of sleep, an inability to relax, and disruption of their weekends.

Councillor I Henderson urged the Sub-Committee to carefully consider the evidence presented, particularly emphasizing the repeated breaches of the noise abatement notice, disregard for council officers' contacts, and statements from Essex police. As a local Councillor, he underscored the importance of freeing up police resources to address other issues rather than being exclusively tied to one particular premises.

In conclusion, Councillor I Henderson appealed to the Sub-Committee to make a decision that would bring an end to his residents' nightmare. He strongly recommended revoking the license and considering a further application rather than a simple transfer. He believed that transferring the licence would not resolve the ongoing problems within the same time scales, and the nightmare for his residents would persist.

The Sub-Committee heard from Ray Dowsett (Landlord). He stated that he had provided a statement to Chloe Blackwell, Michael Cook, and Steve Bennett earlier this week.

He confirmed that on Wednesday, the 15th of November 2023, Flying Trade Group Limited had submitted an application and payment to transfer the premises licence of Wicks Bar at Midland House into the name of Flying Trade Group Limited, the owner of the premises. Copies of this transfer were sent to Essex Police, and it took immediate effect.

Additionally, Flying Trade Group PLC had submitted the application and payment to change the Designated Premises Supervisor (DPS) for the premises from Alex Wicks to himself, Raymond Dowsett. This change also took effect from that day. Importantly, Flying Trade Group PLC did not wish to withdraw these applications; they were being processed. The premises would remain closed until they proposed and agreed on a suitable DPS with both the Sub-Committee and Essex Police. Only then would the premises reopen in January 2024.

During this closure, their tenant would rebrand the premises and carry out all agreed and proposed works outlined in the attached conditions. Upon reopening, the premises will have a new identity as a bar and restaurant. The existing CCTV will be upgraded, and all relevant notices will be clearly displayed inside and outside of the premises. Appropriate works will be carried out within the public toilets to discourage and disrupt drug use on the premises, including the installation of a drug safe. Additionally, a noise management plan, already agreed upon by Rebecca Duff Cole, Technical Officer Environmental Protection at Tendring Council, will be implemented. The noise limiter will be fitted and calibrated.

Throughout this closed period, all relevant staff training, as recommended in the attached conditions, would be conducted. There were no intentions to reduce the operating hours for licensable activities or the opening hours. He stated it was essential to note that the concerns leading to this review were not associated with the hours but rather with the way the premises were managed.

The Sub-Committee were informed by Rebecca Duff Cole that the Council had not received anything from Mr. Dowsett prior to this review and that while Mr. Dowsett says that something had been agreed and accepted she would like to clarify that this was incorrect.

The Sub-Committee resolved to exclude the parties under regulation 14 in order for further enquiries to be made before resuming the meeting.

The Chairman of the Sub-Committee stated that the Sub-Committee had discussed the matter and in the mind of the Councillors there was a clear justification for revocation of the licence. However, the Sub-Committee had been informed that the owner of the premises was applying to transfer the premises licence, intending to close for several months for renovations and reopen as a new business early next year. With that in mind members of the Committee asked that what conditions were being discussed, which had and had not been agreed noting that although revocation was the likely outcome, the committee was willing to consider suspending the license, subject to the current conditions being amended and additional conditions being added.

The Chairman said that as the Sub-Committee had heard from Mr. Dowsett on behalf of the owners that new conditions had been proposed and were under discussion. However, the Sub-Committee had not seen the proposed conditions and wanted to review them before reaching a decision. The Sub-Committee requested a copy of both the agreed and proposed conditions to be provided promptly, and having heard further from both Mr Dowsett and Mr Cook, adjourned to consider their decision. At this point each of the parties were asked if they wished to say anything else to the Committee and to sum up their case before the Committee retired to make their decision.

Upon returning, the Head of Legal Services confirmed that she had given no legal advice on the matter as none was required by the Sub-Committee.

The Sub Committee confirmed upon their return that whilst a revocation is justified they had decided that to balance the wishes of the new licensee and the need to protect the residents from public nuisance and matters of crime and disorder, previously associated

with the venue and as evidenced at the meeting they had decided to suspend the licence and their decision is set out below.

The Sub-Committee **RESOLVED** that:

- a) The licence be suspended for three (3) months with the condition that further changes be added to the licence. These changes have, for the most part, been agreed upon between the two parties. The additional modifications decided by the Sub Committee include the following specific conditions in addition to those contained in the attached document (Ref: Midland House Review Conditions 17.11.23)
- b) Reduction of all opening hours from Monday to Sunday, with closure at midnight each day.
- c) Deployment of one door supervisor from 21:00 to 22:00 hours, followed by two supervisors until half an hour after closing time or until all customers have left the premises on Friday and Saturday evenings.
- d) Regarding outside usage, conditions are largely agreed upon, with the addition of a new condition prohibiting patrons from being admitted or readmitted into the premises after 23:30 hours on any given day. Furthermore, this condition includes random searching practices upon entry, dealing with and banning patrons suspected of using drugs on the premises, and a new condition for the licensee to be active in any Pub Watch or similar committee meeting in the area where a suitable scheme exists.
- e) In relation to noise management, the Sub Committee has endorsed the conditions recommended by the Environmental Protection Team and has added a fourth condition stipulating a 30-minute period of no music or quiet before the closing time of the license.

The Head of Democratic Services and Elections confirmed that the parties would be confirmed the decision in writing along with the rights of appeal.

The meeting was declared closed at 2.00 pm

Chairman