

FAREHAM

BOROUGH COUNCIL

Minutes of the Licensing Panel

(to be confirmed at the next meeting)

Date: Tuesday, 29 November 2016

Venue: Vannes/Pulheim Room

PRESENT:

Councillor Pamela Bryant (Chairman)

Councillors: F Birkett and M J Ford, JP



1. LICENSING ACT 2003 - APPLICATION FOR VARIATION OF PREMISES LICENCE - THE CHARCOAL GRILL, 140 WEST STREET, FAREHAM PO16 0EL

At the invitation of the Chairman, the Panel was joined by the following persons:-

Representing the Applicant (Charcoal Grill)

Mr Jihad Haji – Premises Licence Holder
Mr Adem Yorulmaz – Shop Manager

Representing the Police

PC Jason Pearce, Fareham Police Licensing Unit

The Panel had before it a report by the Licensing Officer regarding an application for the variation of the premises license in respect of The Charcoal Grill, 140 West Street, Fareham PO16 0EL. In accordance with the Licensing Act 2003, a copy of the hearing procedure for the consideration of the application had been made available to all parties at the meeting.

The Panel considered the application in accordance with the agreed hearing procedure as follows:-

- (i) The Chairman of the Licensing Panel outlined the procedure to be observed and invited Panel Members, Officers and Interested Parties to introduce themselves.
- (ii) The Chairman asked the Applicant whether any modifications were to be made to the application. The Applicant confirmed that no modifications were to be made.
- (iii) The Licensing Officer presented a summary of the application and the representations received from the Police.
- (iv) The Applicant was given the opportunity to seek points of clarification on the summary presented by the Licensing Officer.
- (v) The Panel was given the opportunity to seek points of clarification on the summary presented by the Licensing Officer.
- (vi) P C Pearce presented the Police representation outlining their objections to the removal of the licensing conditions and suggesting a compromise position.
- (vii) The Applicant was given the opportunity to seek points of clarification on the Police representation.
- (viii) The Licensing Officer was given the opportunity to seek points of clarification on the Police representation.

- (ix) The Panel was given the opportunity to seek points of clarification on the Police representation.
- (x) The Applicant commented on the application and on the representation made.
- (xi) PC Pearce was given the opportunity to seek points of clarification on the Applicant's comments.
- (xii) The Licensing Officer was given the opportunity to seek points of clarification on the Applicant's comments.
- (xiii) PC Pearce made a closing statement on the application.

The Licensing Panel then withdrew from the room to deliberate in private on the application. Having considered the representation made, the Panel returned to the hearing and all parties were advised that the decision of the Panel was as follows:-

RESOLVED that the condition requiring door staff at the premises between midnight and closing be retained and that in accordance with police agreement this be limited to Friday and Saturday nights as well as Christmas Eve and New Year's Eve. The condition shall also be amended to require only one member of door staff.

**DECISION OF THE LICENSING PANEL REGARDING APPLICATION FOR
PREMISES LICENSE VARIATION AT THE CHARCOAL GRILL, 140 WEST
STREET, FAREHAM PO16 0EL**

All parties shall receive written notification of the decision and reasons.

The Panel has considered very carefully the application for variation of a premises licence at Charcoal Grill.

The Panel has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human Rights legislation has been borne in mind whilst making the decision. It has paid due regard to all representations and evidence both written and given orally today and attached due weight accordingly in light of all the circumstances.

It was noted that the variation application had attracted a representation from the Police and no other representation had been made.

Having heard all the evidence the Panel has determined to retain a condition requiring door staff at the premises between midnight and closing and that in accordance with police agreement this should be limited to Friday and Saturday nights as well as Christmas Eve and New Year's Eve. The condition shall be amended to require one member of door staff.

REASONS

The Panel accepted legal advice provided during the hearing that this was not a review of the premises licence and that the Panel could only determine the details of the application, i.e. the matter in dispute as a result of the representation from the Police – the condition relating to door staff.

The Panel heard evidence from the Police with regards to historic and recent incidents at the premises as well as in relation to an apparent breach of the existing condition requiring two door staff after midnight. The current owner has had charge of the premises since March 2016 and the Panel understands this condition has not been complied with for at least this period. This fact was not disputed by the premises licence holder. This did cause the Panel some considerable concern. It is clear that a responsible premises licence holder should comply with the conditions attached to any licence.

The Panel reviewed the entire evidence relating to the premises and particularly that period relating to the current ownership. During this period (approximately 9 months) one incident has occurred after midnight and may have been prevented by the presence of door staff. On the basis of this evidence it was considered appropriate and proportionate to require one member of door staff at the premises at the times in question. The premises licence holder provided evidence that stated that many of the previous issues at the premises were attributable to homeless people and that he had acted to ban them from the premises. Since this had been undertaken the position had improved. The Panel also noted that the Police had acknowledged that the area had improved with the closure of a nightclub.

The Police indicated that it was standard policy for the request to be for two door staff in order to promote and respect the health and safety of the door staff. This was carefully considered along with the mention of cover for comfort breaks as detailed within the previous review proceedings. The Panel has determined however that given the size of the premises and the evidence relating to issues at the premises the requirement for one member of door staff is more proportionate and appropriate. It is noted that door staff will only be required for two hours on any day and therefore the risks posed by the need for comfort breaks ought to be minimal.

It is a concern to hear the premises licence holder indicate that the police shall not be called in future. The Panel must make it absolutely clear that failing to report criminal behaviour or disorder will only act to their detriment and in the event that this is evidenced the premises licence may be at risk of further action (including potential revocation).

It is stressed to both parties that the position may be reviewed as a result of further representation if the position does not improve or deteriorates as a result of the previous extension of hours and today's agreement to fewer door staff. Appropriate action can be taken to promote the licensing objectives at that time.

There is a right of appeal to the Magistrates' Court for all parties and formal written notification of the decision will set out that right in full.

(The meeting started at 10.06 am
and ended at 12.05 pm).