

DORSET COUNCIL - LICENSING SUB-COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY 11 AUGUST 2020

Present: Cllrs Jon Andrews, Emma Parker and David Taylor

Officers present (for all or part of the meeting):

Lara Altree (Senior Lawyer - Regulatory), Roy Keepax (Licensing Officer), John Newcombe (Service Manager, Licensing & Community Safety), Aileen Powell (Team Leader Licensing) and Liz Eaton (Democratic Services Officer)

21. Election of Chairman and Statement for the Procedure of the Meeting

Cllr J Andrews proposed that Cllr E Parker be elected as Chairman, seconded by Cllr D Taylor

Decision

That Cllr E Parker be elected Chairman.

Cllr Parker welcomed everyone to the meeting and asked all those present to introduce themselves.

22. Apologies

No apologies for absence were received at the meeting.

23. Declarations of Interest

No declarations of disclosable pecuniary interests were made at the meeting.

24. Licensing Sub-Committee Procedures

The Chairman referred to the procedures for the Sub-Committee meeting as set out in Agenda item 4.

25. Summary Review - Fat Cat/Rumshack, Weymouth

The Chairman clarified the police evidence would be heard in private in accordance with Regulation 14 of the hearing regulations we consider that the public interest in so doing outweighs the public interest in that part of the hearing taking place in public. She went through a few points and mentioned that hearings were an administrative function the Sub-Committee were not to make legal rulings legal advice had been taken. The Licensing Act section 53c says the Sub-Committee must hold a hearing to determine the application and this statutory duty had been confirmed by the high court case of Lalee.

Nothing in the surrender provisions impacts on the other functions of the licensing authority. The premises licence isn't extinguished until the period of reinstatement is over, it is a matter for the Fat Cat Rumshack to participate in the hearing or not. This is not the place for legal challenge. Summary reviews are to be taken at a swift action. The safeguard for the Fat Cat Rumshack is the appeals to the Magistrates Courts.

The Chairman mentioned the case was the final hearing for the summary review for the Fat Cat Rumshack in Weymouth and asked the Licensing Team Leader to present her outline report.

The Licensing Team Leader confirmed this was the full review hearing under section 53c of the Licensing Act for the premises known as Fat Cat Rumshack, covered by licence WPL0400 for the Rumshack, 38 Maiden Street. The Summary Review was applied for by Dorset Police under section 53A of the Licensing Act which allowed for an immediate intervention by the Licensing Authority and interim measures to be imposed on a premises while the hearing was organised, and representations are invited.

Section 12.2 of the Guidance stated that the powers were aimed at tackling serious crime or serious disorder or both and they could only be applied for when accompanied by a certificate from a senior police officer at the rank of superintendent or above. In paragraph 12.5 there was a definition for serious crime which as it was in section 81(2) and (3) of the Regulation of Investigatory Powers Act 2000. In paragraph 12.6 of the Guidance it stated there was no definitive list of behaviours that constitute serious disorder, and the matter was one for judgement by the local police.

The summary review was applied for on the 16 July 2020 and the premises have been closed since the 17 July 2020 when the Authority decided it was appropriate to take the interim steps of suspending the license.

The license holder made representations against those interim steps which the Licensing Authority considered at a hearing on the 27 July 2020 where it was decided those steps were still the appropriate measures to take and the suspension of the license remained.

The application to review the premises license was advertised on the premises for at least 7 days and there was a 10-day window between the 17-27 July 2020 for responsible authorities or anyone else to make a representation.

Representations had been received from:

- A. Five responsible authorities including the Licensing Authority
- B. The Town Council
- C. A group of residents; and
- D. One individual.

Names of individuals who make up the residents' group had been supplied to officers and had been redacted at their request. The Licensing Team Leader

confirmed they all lived in the immediate area of the premises or had lived in that area recently.

The Licensing Team Leader confirmed the Sub-Committee would consider everything in front of them from both the report and all its appendices and the oral submissions at this hearing. They would attach appropriate weight to each piece of information before them and then decide whether to take one of the steps available to them under Section 53C of the Licensing Act which they consider to be appropriate and proportionate to promoting the licensing objectives of:

- a. The prevention of crime and disorder
- b. The prevention of public nuisance
- c. Public safety
- d. The protection of children from harm

The steps contained in section 9.10 of the report were:

- a. Modification of the conditions of the licence
- b. Exclusion of a licensable activity from the scope of the license
- c. Removal of the Designated Premises Supervisor from the license
- d. Suspend the license for a period not exceeding 3 months
- e. Revoke the license

Having made that decision which will not take effect for 21 days (or if appealed until an appeal is heard) the Sub-Committee will consider whether it remains appropriate to keep the interim steps:

- a. remain in place, or
- b. be modified, or
- c. be withdrawn.

This is a civil matter not a criminal matter when the Sub-Committee consider the evidence before them must use the evidential test of the “balance of probabilities” not “whether it is beyond all reasonable doubt”.

Paragraph 11.24 states “The licensing authority’s role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.”

Paragraph 11.25 states “Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings.”

There were no questions from the Sub-Committee.

The Chairman asked responsible parties present if they or Dorset Police had any questions they did not.

The Service Manager Licensing mentioned the Licensing Authority had lodged representations in support of a review of the premises license for the Fat Cat Rumshack. The premises should be operating at an enhanced level but they were not run properly the Designated Premises Supervisor (DPS) was weak and had not complied with the Licensing Act and for this reason the Licensing Authority were seeking revocation of the license. There had been a long history of noncompliance with no less than 20 offences under various sections of the Licensing Act. On the 6, 13 and 14 July offences took place and three sets of statements from Licensing Enforcement Officers had been completed. The Service Manager Licensing had provided footage from Dorset CCTV from the 6, 13 and 14 July and despite repeated requests the license holder failed to provide footage of CCTV. Statistics from the Ambulance Service showing the number of call-outs had been provided. The license holder had offered alternative measures but it was felt their proposal was insufficient.

Sub-Committee had no questions.

Chairman asked whether the age verification policy was in an obvious place.

The Service Manager Licensing mentioned there had been no age policy in place at the premises in his first report. Advice had been given to the premises and on another visit this was in place. On 4 July a poster was up but the DPS could not find the policy. The owner arrived later and the policy was found behind the bar, a screwed up piece of paper, unavailable to view and no copy of the full licence. On that occasion the policy was in place but not previously.

Chairman asked whether it came across as alarming that someone in the position of a DPS was not fully aware of the conditions on a licence. Officers confirmed it was alarming as they had been given verbal and written warnings and were not complying with the conditions, he had not come across that before.

The Chairman enquired of the Service Manager Licensing what sort of welcome did he receive on his visit. The Service Manager Licensing mentioned he had visited a number of premises on 4 July as it was the re-opening of the high street and pubs on the relaxation of the Covid-19 restrictions not all were perfect but when he arrived at the Fat Cat Rumshack it was chaotic, no one was on the door, loud music was playing, there were lots of customers all standing at the bar huddled together, no table service. The DPS was not present, when he did arrive I asked to see his licence and copy of premises licence I asked a colleague to send me a copy on my mobile device to check. I conducted a licensing inspection and found a large number of breaches in relation to CCTV and smaller measures and door supervisor, risk assessment etc. All this has been detailed in my representation. The DPS was helpful and tried his best but was new, however, about halfway through the visit the owner arrived and was aggressive with the Service Manager Licensing who got the impression that if he had not been accompanied by Sergeant Gosling he would have felt threatened. It seemed the owner used intimidation to avoid action. The Service Manager Licensing

went through the breaches with the licence holder who did not feel they were relevant, important or ought to be complied with. By the end of the visit the owner was more conciliatory. The Service Manager Licensing was very concerned that if allowed to continue to operate more breaches of conditions and more violence would be seen.

Regarding the incident book the Chairman asked if there were any incidents reported in the book. The Service Manager Licensing confirmed the license clearly set out what that book should look like but it did not exist there was a note book but nothing had been entered in it for a considerable time and did not satisfy requirements and had not been used properly.

Chairman had no further questions and asked the responsible parties and the Licensing Officer if they had any questions.

The Licensing Officer mentioned when she visited the premises on the 9 July with Sergeant Gosling she saw a book which had one incident dated 8 July stating four males came into premises asking for Cocaine and one incident with no date and prior to that the last entry was 20 July 2019.

The Chairman asked what reception the Licensing Officer received from the license holder when visiting the premises. The Licensing Officer confirmed she always visited with police colleagues on the first and second time Mr Butcher was present and on the third time Mr Lyones with his representative Mr Munroe and Mr Lyones' son were present. They were not the friendliest but nothing untoward happened.

The Chairman asked the Sub-committee and any responsible party if they had any questions. Sergeant Gosling asked the Licensing Officer to clarify why she always went with the police. The Licensing Officer confirmed she went with a uniformed police officer purely for safety.

Cllr Taylor asked whether she felt threatened. She had not felt threatened but as a lone female entering a place like that felt more comfortable having a police officer present for security and support.

The Chairman referred to one of the statements when the Licensing Officer had visited the premises with Sergeant Gosling and in one of the statements the Licensing Officer had been informed that they did not need a risk assessment or door staff as they were an eatery. The Licensing Officer confirmed the attitude of the license holder was that he did not need a risk assessment he knew his premises.

Cllr Taylor was surprised there were no backup documents as the premises were being run as proper licensed premises. The Licensing Officer mentioned that most places were happy to oblige if the police requested CCTV footage and explained that officers would provide a data stick but the license holder was not happy to provide the footage.

The Chairman referred to the statement on the 4 July 2020 when officers were at the premises and found timings of CCTV footage were incorrect. You

would have to go back with a data protection form that was odd and that Mr Lyones considered as you had visited 4 times in a week it was harassment. The Licensing Officer confirmed the CCTV footage had not been recorded from 4 to 8 July 2020. Mr Lyones' son had gone to the premises on 8 July to correct this but there was no harassment.

The Chairman asked the Environmental Protection Officer for her comments she mentioned the submission as part of the summary review on page 102 of the report. She gave a brief overview of the role of the service part of which was to receive complaints regarding noise issues from pubs and clubs. Over the past 12 months Dorset Council had received 24 complaints relating to noise and unsocial behaviour from premises in the area and had carried out late night visits working closely with a local action group and installed noise monitoring equipment. There had been 8 complaints regarding the Fat Cat in last 12 months. Officers asked complainants to complete a diary sheet over a 2 week period to establish whether noise monitoring equipment needed to be installed but unfortunately the complainants had not returned the diary sheets and only one noise monitor had been installed. The premises were subject to continued complaints. Mr Ireland, Case Officer agreed to take questions.

Cllr Andrews considered it must be very frustrating to have people complain, then not complete and return the diary sheet. The Case Officer confirmed that he received so many complaints regarding the Fat Cat it was sad that some people had not returned their diary sheets which were required to verify statutory nuisance. One landlord had complained as a previous tenant had moved out because of the noise and was concerned that the current tenant would soon move out.

Cllr Taylor asked whether any of this information was married up to the incident book at the Fat Cat. The Case Officer was not aware that it was. He commented that some completed diary sheets received had related to premises with anti-social behaviour and people noise in the street.

Cllr Taylor referred to the map and that the hot spot was indeed very hot. The Case Officer confirmed that it was he had attended in December with colleagues from the Police, Fire and Licensing at midnight and the area between the Fat Cat and the Duke of Cornwall was a mass of people.

With regard to the installation of sound limiters in neighbouring properties the Chairman asked whether the noise was relatively high during the day when it should not have been. The Case Officer confirmed he had fitted noise monitoring equipment in one premises and a colleague had fitted one relating to the Fat Cat. One complainant wanted to deal with this informally and the Case Officer had met with him and if recordings were taken had planned to play them back and let the Fat Cat listen to them. He thought it was a good idea but unfortunately that was as far as they had got as lockdown came into force and everything came to a halt.

Chairman asked if there were any questions from responsible parties. There were no questions from the Sub-committee or responsible parties.

Dorset and Wiltshire Fire and Rescue Service – there was no representative from the service.

Chairman asked the Environmental Health, Food and Port Health officers for their representations Tamsin Horsler, Team Leader and Marc Hortin were present they had visited the premises on 15 July 2020 due to a number of concerns raised by the Licensing Authority relating to unstable damaged flooring leading to the kitchen, odorous waste stored in a cupboard off of the kitchen, the CCTV monitoring area was obstructed by cables and a ceiling light not working, there was an unstable fridge in the bar area and they had various health and safety concerns. Officers had left a note at the end of their visit and have since followed up but the person responsible for health and safety had left.

The Chairman asked the officers if they would confirm they had contacted Mr Ronayne on the 27 July 2020 regarding the waste left at the premises and had that now been cleared. Officers confirmed they had contacted Mr Ronayne who was no longer involved with the premises and they were not aware that the waste had been cleared and as the premises were closed under Food and Health and Safety, Environmental Health, Food and Port Health had no jurisdiction but this was being followed up.

Chairman had no further questions and asked the Sub-Committee and responsible parties if they had any further questions.

Cllr Andrews referred to the report from the Senior Building Control Surveyor regarding the deteriorating lintel and whether the smoke shelter was open as the Fire Brigade had condemned it and had the lintel been replaced. The Team Leader had not seen the smoking shelter in use during her visit and confirmed they had concerns about a lintel above a window which had looked broken.

The Environmental Protection Officer had spoken with the Building Control Officer on the 10 August 2020 regarding the smoking shelter on the first floor which colleagues in Dorset and Wiltshire Fire and Rescue had prohibited in December 2019 and was not in use when visited on Friday 13 December 2019. The lintel referred to was one of the main windows on Maiden Street but he could not confirm if it had been replaced or not.

The Chairman asked the Sub-Committee and responsible parties if they had any further questions.

The Chairman asked Nigel Shearing from Respect Weymouth if he had anything further he would like to add to Respect's representation. Mr Shearing explained the group was set up about 12 months ago and had tried to be constructive with the licensee and his partner but they were not interested. It was very concerning that the recording sheets had not been completed as people did not understand the process, residents were fearful of retaliation and intimidation. In the last 12 months in the immediate area at least 6 people had been forced to move out of the area, 2 of those were as a direct result of the behaviour of the Fat Cat and 3 people were in the process

of moving out due to the behaviour of the Fat Cat. Residents were fearful of the Fat Cat bar reopening as there would be more fighting, violence, drugs and underage drinking and children being exposed to foul language, and loss of sleep residents had had enough of the behaviour from this place to date.

The Chairman asked what the situation was like with the Covid-19 pandemic. Mr Shearing confirmed the pandemic had stopped a most of the antisocial behaviour and residents felt the situation was far better and not so intimidating.

Cllrs Andrews and Taylor thanked Mr Shearing for highlighting protection of children in the area which was very concerning.

As there were no more questions from the Sub-Committee or questions from responsible parties the Chairman asked the parties concerned to sum up:

Respect Weymouth - Mr Shearing confirmed everything was contained in Respect Weymouth's report, 21 residents had over the last 12 months been frightened to make representations or do anything but now wanted to see action taken. The police evidence had yet to be heard 90% of problems that were causing disturbance and unrest for residents were not actually dealt with by police at the time and most residents chose not to report anything other than serious crime.

Environmental Health, Food and Port Health - officers had nothing further to add to their report.

Environmental Protection - officers had nothing further to add.

The Licensing Officer had nothing further to add.

The Service Manager Licensing had nothing further to add to his report but made the observation that this was one of the strongest cases he had seen as a Licensing Enforcement Officer and the police report had not yet been considered or the 3 incidents that triggered the Summary Review. He was grateful, as the Licensing Authority, to all other responsible authorities and local residents for supporting the review and felt it was extremely important that premises that caused issues and did not uphold the licensing objectives were dealt with appropriately. He had nothing further to add.

The Licensing Team Leader had nothing further to add.

Dorset Police - Sergeant Gosling thanked the Service Manager Licensing and other partner agencies as it was important for the residents not to be intimidated by the owner of the Fat Cat.

The Solicitor confirmed everything had been covered and nothing further to add.

It was proposed by Cllr Andrews and seconded by Cllr Taylor that the Sub-committee move into exempt business.

Decision

The Sub-Committee decided that the premises licence for the Rumshack/Fat Cat Bar should be revoked. In addition, the Sub-Committee decided that the Interim Step of suspending the premises licence pending the full hearing should remain in place pending any appeal to the Magistrates' Court and determination of that appeal.

26. **Urgent items**

There were no urgent items.

Duration of meeting: 10.00 am - 12.28 pm

Chairman

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