

REPORT TO: LICENSING SUB- COMMITTEE

DATE: 16TH OCTOBER 2019

TOPIC: DETERMINATION OF APPLICATION FOR A REVIEW OF A PREMISES LICENCE, BUNCH OF GRAPES, 36 HIGH STREET, ILFRACOMBE, DEVON, EX34 9DA.

REPORT BY: LICENSING SERVICE LEAD

1. INTRODUCTION

- 1.1 The purpose of this hearing is to determine an application for the review of the premises licence relating to The Bunch of Grapes, 36 High Street, Ilfracombe, Devon, EX34 9DA.
- 1.2 An application for review of the premises licence number PWLA0044, (appendix B), under section 51 of the Licensing Act 2003 (“the Act”) was made by North Devon Council’s Environmental Protection Team on 22 August 2019, (appendix A to this report) on the grounds that the premises are undermining three of the four Licensing Objectives: (i,ii,iii)
- I. the prevention of crime and disorder,
 - II. the prevention of public nuisance,
 - III. public safety and
 - IV. protection of children from harm
- 1.3 Additional representations have been received from the following Responsible Authorities in support of this review:
- I. Devon and Cornwall Police (appendix C)
 - II. North Devon Council Planning (appendix D)
- 1.4 Additional representations in support of this review have been received from 2 ‘other persons’ (appendix E)

2. RECOMMENDATIONS

- 2.1 That the Sub Committee –

Considers the request for determination of the application for the review of premises licence for the Bunch of Grapes and additional representations included in appendices A to E of this report together with any oral submissions at the hearing.

In determining the review, the Sub Committee may take any or all of the following actions:-

- I. No action
- II. Modify the conditions attached to the licence
- III. Exclude a licensable activity
- IV. Remove the Designated Premises Supervisor
- V. Suspend the Licence for a period not exceeding 3 months
- VI Revoke the licence

2.2 The conditions of the licence, with the exception of mandatory conditions in annex 1 of the licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.

2.3 The licensing authority may decide that no action is appropriate if it finds that the review does not require it to take any steps that are appropriate to promote the licensing objectives.

3. Reasons for Recommendations

3.1 The recommendations are made so that the Sub-Committee fulfils its duty under section 52 of the Licensing Act 2003 to determine the application for a review of a premises licence.

4. Background

4.1 The relevant premises, the Bunch of Grapes, 36 High Street, Ilfracombe, Devon EX34 9DA was initially licensed in the name of James Andrew Stephen Ellis on the 13 September 2005, Licence number PWLA0044. Since this date the premises has had the following premises licence holders -

- 13.9.2005 to 17.2.2012 James Andrew Stephen Ellis.
- 17.2.2012 to 20.7.2012 EI Group PLC.
- 20.7.2012 to 15.1.2013 Mark Keen.
- 15.1.2013 to 9.4.2014 EI Group PLC.
- 9.4.2014 to 24.5.2019 Andrew David Hutchins
- 24.5.2019 to present Abbeyvalley Limited

4.2 The premises licence holder is Abbeyvalley Limited, who lease the premises to a manager. The designated premises licence holder (DPS) is Adam George Squires.

4.3 The premises are a public house which shows televised sporting events and holds live and recorded music events. It is situated on the busy main high street with a mixture of residential and commercial properties. (Location map at appendix F)

4.3 The premises closed for an unknown period around Autumn 2018 to 1 March 2019.

4.4 On 25 April 2019 North Devon Council officers Howard Bee, Kate Morne and Police Licensing Officer Paul Butler visited the premises which were now open. Mr Adam Squires and the manager who were operating the premises told the officers that the premises was under new ownership and management and had been open for over a month. It transpired that the new owners had opened the premises without making the required licence applications to transfer the premises licence and vary the DPS.

4.3 The premises are licensed for the following activities and times:

Licensing Activity	Day	Start	Finish
Exhibition of films (Indoors)	Sunday to Wednesday Thursday to Saturday Christmas Eve New Year's Eve	19:00 19:00 19:00 12:00	01:00 02:30 02:30 12:30 (NYD)
Performance of live music (indoors)	Sunday Monday to Wednesday Thursday to Saturday	Noon Noon Noon	01:00 Midnight 01:00
Playing of recorded music (Indoors)	Sunday to Wednesday Thursday to Saturday New Year's Eve	19:00 19:00 12:00	01:00 02:30 01:00 2 Jan.
Performance of Dance (Indoors)	Monday to Sunday	Noon	Midnight
Entertainment of a similar description to that falling within E,F,or G (indoors)	Sunday to Wednesday Thursday to Saturday New Year's Eve	Noon Noon Noon	Midnight 01:00 00:30 2 Jan.
Late night refreshment (indoors)	Sunday to Wednesday Thursday to Saturday New Year's Eve New Year's Day	23:00 23:00 23:00 23:00	01:00 02:30 05:00 (NYD) 01:00 2 Jan
Supply of alcohol for consumption ON and OFF the premises	Sunday to Wednesday Thursday to Saturday New Year's Eve	09:00 09:00 09:00	Midnight 01:30 Midnight (NYD)
The opening hours of the premises	Sunday Monday to Wednesday Thursday to Saturday	01:00 09:00 09:00	01:00 01:00 02:30

A copy of the current licence is appended at appendix B.

5. Relevant Representations

5.1 The relevant Licensing Objectives are:

Licensing Objective	
Prevention of Public Nuisance	x
Public safety	x
The prevention of crime and disorder	x

5.2 Grounds for the application to review submitted by North Devon Council Environmental Protection Team include:

- There has been a prevalence of disorder and criminal behaviour on or near the premises between March 2019 and August 2019.
- Public safety on or near the premises has been compounded by the lack of management control, for example staff have not been adequately trained, intoxicated attendees have been served alcohol and the safe management of access and egress to and from the venue has been below acceptable standards due to customers being allowed to congregate outside of the venue resulting in disorder and noise disturbance.
- Serious nuisance to the public has been caused by noise emanating from the premises and by the disorderly conduct of the customers near the premises.
- Shortly after the Bunch of Grapes re-opened with new management, a number of complaints were made regarding late night disturbance until 3 - 4 am in the morning from customers leaving the premises and concerns of drug dealing by the customers.
- It was identified that the pub was running without the requisite licensing permissions.
- The premises did not have sufficient door staff during the busiest periods on Friday and Saturday evenings and the activity in the beer garden at the rear was not being closely monitored by staff.
- Visits by police identified the premises did not have an incident log book, drugs policy or refusal register.
- Complaints were received on the 7 May 2019 of customers causing noise disturbance from the beer garden area until 2.30am, glass being smashed and a high volume of music at the premises.
- A Community Protection Warning letter under the Anti-Social Behaviour Police and Crime Act 2014 was issued on the 27th June 2019 to the manager of the premises, Adam Squires and Abbeyvalley Ltd.
- Evidence of noise disturbance from the rear garden was provided to North Devon Council on the 29 June 2019.

- On the 6 August 2019 the Council received three complaints from separate complainants regarding an incident outside the premises which continued until 1.30am, this was linked to an altercation which had started inside the premises. Complainants advised that they were kept awake by shouting, screaming and swearing which was very upsetting to family members and impacted on their sleep. There was no door supervisor on duty as it was a Monday evening.
- An individual known to the Police was working behind the bar and later banned from the premises. However this individual still enters the premises as the staff are too intimidated to remove him.
- Two complainants have withdrawn their complaint as they felt threatened because of fears of reprisals if identified.
- A table provided by Devon and Cornwall Police included in the review application compares the crime logs and crimes of pubs in Ilfracombe over the period from March 2019 to August 2019 since the Bunch of Grapes has been re-opened. It indicates that there is a greater level of demand on Police resources from the premises compared to other licensed premises in the area.

5.3 Grounds to support the application to review which have been submitted by Devon and Cornwall Police include:

- During April 2019 there were three Police logs and two crimes associated with the premises.
- On the 24 April 2019 initial enquiries revealed that the CCTV system was not working, this is a breach of premises licence condition number forty nine.
- On the 25 April 2019 a male known to the Police for violence and drugs was working behind the bar.
- On the 30 April 2019 a Section 23 Misuse of Drugs Act Warrant was executed and the premises was searched. No drugs were found.
- During May 2019 there was one Police log and no crimes associated with the premises.
- During June 2019 there were two Police logs and two crimes associated with the premises.
- On the June 14 2019 the Police received allegations that staff members assaulted 4 males and that a mass brawl had taken place outside the premises.
- On the June 16 2019 a Police officer met the manager of the pub to discuss the recent Police logs and crimes associated with the premises.
- On the June 17 2019 the Police emailed the premise licence holder, Abbeyvalley Ltd with details of the meeting held with the manager.
- On 27 June 2019 the Police Licensing Officer issued the manager of the premises with a drugs policy and 'licensing action plan'.

- At the end of June 2019 associated to the premise there were three pieces of Intelligence relating to drugs.
- During July 2019 there were three Police logs and two crimes associated with the premises.
- On the 15 July 2019 the Police recorded 3 persons outside the premises fighting with bottles and glasses but then returned inside the premises. The main instigator left prior to the arrival of the Police. There were no complaints forthcoming and the log was closed.
- During August 2019 there were five Police logs and four Crimes associated with the premises.
- Police recorded allegations of an incident which was outside the pub regarding a male being threatened with a weapon and a vehicle driven at him.
- On the 6 August 2019 Police received a call from pub advising that 3 intoxicated females had been evicted from the pub and were fighting outside. Police attended but no one around on arrival.
- On the 15 August 2019 two Police officers visited the premises and witnessed two persons working behind the bar whom the Police have significant intelligence regarding drug dealing.
- On the 19 August 2019 the manager of the premises confirmed that the CCTV was working, however the premises was breaching premises licence condition number 49 because the entry and exit points were not covered by the system.
- On the 20 August 2019 a Police officer recorded that the DPS did not want to ask a person who was barred from the premises to leave due to fear of reprisals.
- On the 25 August 2019 it was reported by a member of staff that 15 males were fighting outside the premises. Police arrived at 03:00am Hours. Some of the males had dispersed, one male had a small part of his ear missing but did not engage with Police. Video footage was submitted highlighting a member of staff watching and not trying to stop the fighting.
- Since the Bunch of Grapes opened on the 1 March 2019 to 31 August 2019 there has been a greater level of demand generated by the premises compared with eleven other licensed premises in the area. The premises accounts for 54% of Police Logs and 50% of crimes recorded. Many of the incidents associated with the premises emanate from alcohol related disorder, either behaviour or assaults.

5.4 Grounds to support the application to review submitted by North Devon Council Strategic Development and Planning include:

- Under reference 44179 planning permission was granted in May 2007 for 'reduction of rear bar area to form external patio garden'. This was a conditional consent and at condition (4) it was stated:-

‘The external patio garden area hereby permitted shall only be used between the hours of 09.00 and 23.00 daily’.

The accompanying reason was:-

‘In the interests of the amenities of adjoining occupiers’.

- Under reference 48654 an application to vary condition (4) attached to planning permission 44179 was refused in August 2009. The reason was:-

‘In the opinion of the Local Planning Authority, a proposed relaxation of restrictions (on the use of the "patio garden") would be likely to give rise to increased noise and disturbance to occupiers of adjoining properties.

As a consequence the amenities of neighbours would be materially harmed – and accordingly the proposal would not be in accordance with Policy DVS3 of the adopted North Devon Local Plan.’

5.5 Grounds to support the application to review submitted by two ‘other persons’ include:

- Constant loud music, fights and noisy patrons from the premises causing a nuisance to local residents.
- Threats of fear, intimidation and violent reprisals from persons linked to the premises.
- Allegations of large scale drug dealing from the premises.

6 RELEVANT LICENSING POLICY CONSIDERATIONS

6.1 The Sub-Committee is entitled to draw upon any of the considerations outlined in its Licensing Policy document. However, the most significant policy considerations appear to be the following:

- Paragraphs 3.2 to 3.2.2 (Crime and Disorder).
- Paragraphs 3.3 to 3.3.2 (Public Safety).
- Paragraphs 3.4 to 3.4.3 (Prevention of Public Nuisance).
- Paragraphs 9.2 to 9.2.7 (Review)

8 RELEVANT STATUTORY GUIDANCE CONSIDERATIONS

8.1 The following provisions of the Licensing Act 2003 Act which apply to this section are sections 51 and 52.

8.2 These sections detail how a review application should be made and the process which should be followed in determining the application.

- 8.3 The Licensing Act 2003 (Hearings) Regulations must be utilised in determining applications submitted under the Licensing Act.
- 8.4 The Sub-Committee is entitled to draw upon any of the considerations outlined in the Statutory Guidance issued under section 182 of the Licensing Act 2003 and published by the Home Office, April 2018. However, the most significant statutory guidance appears to be in the following:
- Paragraphs 2.1 to 2.6 (Crime and Disorder).
 - Paragraphs 2.7 to 2.14 (Public Safety).
 - Paragraphs 2.15 to 2.19 (Public Nuisance).
 - Paragraphs 11.1 to 12.35 (Reviews).

9 Options

- 9.1 The Act at section 52(2) and (3) states that before determining the application, the licensing authority must hold a hearing to consider it and any relevant representations. It must, having regard to the application and any relevant representations, take such steps mentioned in section 52 (4) (if any) as it considers necessary for the promotion of the Licensing Objectives.
- 9.2 The steps referred to in paragraph 9.1 above are:-
- i) To modify the conditions of the licence;
 - ii) To exclude a licensable activity from the scope of the licence;
 - iii) To remove the designated premises supervisor;
 - iv) To suspend the licence for a period not exceeding three months;
 - v) To revoke the licence.

The conditions of the licence, with the exception of mandatory conditions in annex 1 of the licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.

Where the Licensing Sub Committee is minded to modify the conditions of the licence, it may do so either permanently or for a period not exceeding three months.

The licensing authority may decide that no action is appropriate if it finds that the review does not require it to take any steps that are appropriate to promote the licensing objectives.

Any party to the hearing has the right of appeal to North and East DEVON Magistrates Court following the determination of the review under section 52 of the Act.

10 BACKGROUND PAPERS

- Licensing Act 2003
- Amended guidance issued under section 182 of the Licensing Act 2003 (Home Office April 2018)
- Licensing Act (Hearings) regulations 2005
- North Devon Council Licensing Policy

11 APPENDICES

Appendix A Application for review

Appendix B Current Premises Licence

Appendix C Devon and Cornwall Police Licensing representation

Appendix D North Devon Council Planning representation

Appendix E Representations submitted by two other persons

Appendix F Location Plan

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Date: 2 October 2019