

SHEPWAY DISTRICT COUNCIL

Hearing determination

Date of Hearing20 March 2018.....

Premises ...Bank Bar, Basement Premises 2 Castle Hill Avenue Folkestone Kent

Licence holder ...Mrs Swee Leng Teong.....

Reason for Hearing.....Review of Premises Licence

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My colleagues and I have now made a decision in respect of this hearing.

We have heard the evidence from the Environmental Protection Officer and Planning Officer:

- The premises are being conducted in such a manner as to prejudice the Council's licensing objectives, with the management of the premises being below standards that are expected in respect of premises operating in the late night economy.
- Community Safety reports and crime reports were evidenced as a failure to promote the Prevention of Crime and Disorder.
- There is noise pollution, loud music, screaming from patrons, which is a complete disregard of neighbours under the Prevention of Public Nuisance licensing objective.
- A recommendation to include properly staffed door supervisors who adhere to public safety and who should all be SIA accredited. Currently the Door Supervisors do not manage the external areas adequately.
- There are 13 active complaints in place, which mainly relate to the opening hours, noise and patrons being abusive towards neighbours and each other.
- Mr Tse listed the Emergency Response Officers' reports and detailed some of the breaches of the mediation terms.
- Mr Tse detailed the ongoing complaints received from residents and how the reduction in the opening hours would help minimise these complaints.
- Mr Tse provided a number of suggested recommendations which he thought should be agreed by the Sub-Committee and these are listed as part of the final recommendations below.

Beth Lennon (the Planning Officer) confirmed that the Council had received a large number of calls in respect of noise nuisance, which are in breach of planning conditions and the prevention of public nuisance. It is clear that the early hours enhance this noise and therefore do not promote the licensing objectives.

The premises are operating outside of the hours for which it has planning permission, which are 9am until 11pm and these hours are in place so as to protect residential amenities. The evidence presented at the hearing, including that of Mr

Lim, suggests the premises have been operating as a night club, use which would need independent planning permission.

Mr William Lim attended the Hearing and informed those present that he was the bar manager for two years from October 2015 to November 2017. He said that he had reported most of the incidents of crime and disorder to the police which included an attempted break in and racist abuse.

His mother is the Designated Premises Supervisor (the DPS) and speaks limited English and that is why she is not attending the hearing; she knows what is going on at the bar and delegates her DPS powers to the managers.

We have heard the evidence from the representative (Mr Lim) on behalf of the Licence holder:

Mr Lim did not understand all of the residents' submissions as he had not witnessed what had been stated. If these incidents were reported he had not had any follow up meetings to discuss the issues with either the Police or Environmental Health Officer.

Mr Lim did not agree that the Environmental Health Officer had reported no door staff on duty when they kept a record of who was on duty and a log is kept of any incidents that occur inside and outside the premises. There have been no visits to the bar to request this information. All events are risk assessed and determine how many door staff are needed.

Mr Lim informed that there had been a mediation meeting, with no residents in attendance and he believed he had actioned everything following this meeting. No follow up of this meeting has taken place. No visits from Licensing staff throughout 2016 or 2017.

Mr Lim stated he has never received direct complaints, emails or letters referring to any of the above resident issues.

Mr Lim engaged an acoustic specialist and the report features in the representation pack he submitted. Noise here seems to be a key issue. When he applied for this licence he asked for scientific measurements for music levels and never received an answer.

Mr Lim informed that 80% of his business is after 11pm and that he has requested a copy of the Licensing policy which he is still waiting for. He considered that there should be a balance between the needs of his business and neighbours. He also considered that it was the responsibility of local estate agents to tell prospective purchasers of adjacent property that there was a bar nearby.

Mr Lim set out his concerns that patrons, the majority of whom arrive after 11pm, are 'preloading' and often arrive at the premises inebriated, with later and later arrivals in recent years. Preloading is when people purchase alcohol from supermarkets and drink at home before coming to the Bank Bar. When challenged by the panel as to why he allows entry, he stated that it is often hard for door staff to tell and when he has made this clear to his door staff they do not always ask patrons to leave.

Mr Lim stated that an incident book is kept on site to record any problems that occur, however he was not aware that local people had spoken to door staff about noise and disturbance. The incident book was not presented as evidence at the Hearing.

Mr Lim made clear that he no longer works at the Bank Bar and the DPS is not on site. He confirmed that the DPS speaks limited English. He was not aware who has been managing the premises since November, despite events taking place at the premises.

We have heard evidence from Independent Representatives as follows:

Philip Carter
Mr Floria
Miss Manoli
Dawn Hardingham
Vanessa Summers
Zoe Bowden
John Murray
Emily Coleman
Babulal Kotak
Councillor Pascoe
Acting Sergeant, Chris Stephens, Kent Police

The Sub-Committee is required to give comprehensive reasoning of the decision. The Sub-Committee discussed at great length the issues surrounding this venue and the current licence. The Sub-Committee did not think it was for the owners of the properties to come to the management of the bar and complain directly; the managers of the bar should manage the bar in such a way it limits complaints and know if the venue is subject to complaints. The lack of management, supervision and control at the Bank Bar is one of extreme concern. All warnings and conditions have been disregarded and this is unacceptable in a residential area. Our view is this behaviour is not proportionate and the Bank Bar must take a considerable proportion of the blame.

Councillor Tillson asked if everyone present had had a fair hearing. All agreed including Mr Lim.

The Sub-Committee's decision is to suspend the licence for 3 months from the date of this hearing until the Bank Bar is operating properly (as stated below).

The Sub-Committee looked at the volume issues, the seriousness of the effects of noise and the seriousness of all the crime reports, including intoxication, use of drugs, abuse and fighting when reaching this decision. The Sub-Committee recommended that the following conditions be added to the existing licence:


In line with the Council's draft Licensing policy, where establishments in a residential area are concerned, the core opening hours will be the period during which customers are permitted to be on the licensed premises: this includes 30 minutes 'drinking up' time (Monday to Sunday: 10:00 - 23:30).

- 1. To minimise the impact of the noise from the premises and from patrons leaving the premises, the current hours to be reduced in line with our draft Licensing policy. To reflect this, live and recorded music to cease and alcohol sales to cease at 23:00hrs and 30 minutes drinking up time so the premises close at 23.30hrs. This is in line with the Licensing Objective: Prevention of Public Nuisance.**
- 2. A noise limiter to be installed and set at a level to be agreed with the local authority with the inclusion of a meeting at the most sensitive complainants property then the noise level to be agreed and then recorded as the set limit. This is in line with the Licensing Objective: Prevention of public nuisance.**
- 3. A maximum of 10 patrons to use the smoking area at any one time. No inebriated patrons to be permitted within the smoking area. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 4. At least one door supervisor who is SIA registered to be present at all times when the premises entertain live events/music instead of the normal recorded music. This is in line with the Licensing Objective: Public safety.**
- 5. Door supervisors to manage the noise levels of patrons in the smoking area and limit the time spent in this area when not smoking. Door supervisors are also required to control patrons in the immediate vicinity of the premises to ensure that they do not cause noise or crime or disorder. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 6. No alcoholic drinks to be taken outside the premises or in the smoking area after 21.00pm. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 7. Patrons must be told before leaving the premises to be considerate to the neighbours. Notices should be displayed in and outside of the premises to reflect this. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder**
- 8. Install a double door system at the front entrance of the premises to limit the exterior noise leakage and seek planning permission where necessary. This is in line with the Licensing Objective: Prevention of Public Nuisance.**
- 9. The Licensing Sub-Committee requires that the Designated Premises Supervisor is on site to manage these premises throughout opening hours.**
- 10. That the current Designated Premises Supervisor is removed and a new appropriate DPS appointed.**

Licensing Sub-Committee members:

Name Councillor Russell Tillson

Signature



Name Councillor Mrs Jenny Hollingsbee Signature...

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Name Councillor Michael Lyons

Signature...

