

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 21 January 2022 at 10.03 am.

Present:

Sub-Committee:

Chairman: Councillor T A Bond

Councillors: P D Jull
D P Murphy (as substitute for Councillor D G Cronk)

Officers:

Legal Adviser: Contentious and Regulatory Lawyer
Regulatory Lawyer

Licensing Officers: Head of Regulatory Services
Licensing Manager
Licensing Enforcement Officer
Administration Assistant

Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2022/0001R).

36 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor D G Cronk.

37 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor D P Murphy was in attendance as substitute for Councillor D G Cronk.

38 DECLARATIONS OF INTEREST

Councillor D P Murphy declared a Voluntary Announcement of Other Interests in Agenda Item 4 by reason that as a Cabinet member of Kent County Council (KCC), one of the objectors to the application, Erin Bell, was known to him as a KCC employee although he did not know her personally.

39 LICENSING ACT 2003 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - LAVA LOUNGE BAR, 31 BIGGIN STREET, DOVER

The Sub-Committee considered an application for the review of a Premise Licence in respect of Lava Lounge Bar, made under Section 51 of the Licensing Act 2003 and requested by PC D Rolfe (Police Licensing Enforcement Officer), on behalf of Kent Police, on the grounds that the licensing objectives of the Prevention of Crime and Disorder and Public Safety were not being promoted.

Under regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the hearing was to be held in public. However, the licensing authority may exclude the public from all or part of a hearing where it considered that the public interest in so doing outweighed the public interest in the hearing, or that part of the hearing,

taking place in public. Part of the hearing would consist of viewing body worn camera and CCTV footage that would contain personal data of individuals. Due to the rights and freedoms of those data subjects, and the Council's obligations under data protection legislation, such footage was necessary for the Sub-Committee's determinations and therefore during the playing of those footages the hearing was not in public.

On the basis of the representations of the Responsible Authority – Kent Police (the applicants), representatives of Lava Lounge Bar and other persons, the Sub-Committee found the following facts to be established:

- (i) That under Section 52 of the Licensing Act 2003, PC Rolfe, on behalf of Kent Police as the Responsible Authority, submitted a review application for Lava Lounge Bar, Dover and sought the revocation of the premises licence.
- (ii) It was stated by Kent Police that the venue was a generator of a high level of crime and disorder, and it was the belief of Kent Police that the premises' management had failed to promote the licensing objectives of the Prevention of Crime and Disorder and Public Safety despite on-going partnership working between Kent Police Licensing, Dover District Council and the premises.
- (iii) The application cited an incident at the premises on 21 November 2021 which resulted in a large disturbance.
- (iv) During the consultation period one representation was received from Erin Bell of Dover Youth Hub. Ms Bell had been made aware that young women, as young as 14, had been served alcohol at the Lava Lounge Bar and made her representation under the licensing objective Protection of Children from Harm.
- (v) CCTV footage from the premises, body worn cameras and DDC CCTV of the incident on 21 November 2021 was shown at the meeting.
- (vi) At 02:23 hrs CCTV footage from outside the premises showed a female patron carried out from the premises and placed on the pavement outside the premises but away from the barriered area at the front of the premises. The footage showed both door supervisors present.
- (vii) Members were advised by Ms Tupper-Price that the female had consumed two drinks in the premises and that she had been told by the female's boyfriend, who had carried her out of the premises, that the alleged fit was brought on by the mix of alcohol and medication.
- (viii) Door supervisors radioed the incident through to DDC's CCTV who deployed South East Coast Ambulance Service to the scene (SECAMB) and arrived at 03:00 hrs.
- (ix) At 02:30 hrs CCTV footage from inside the premises showed an altercation and a member of door staff immediately intervened.
- (x) At 02:32 hrs CCTV footage from outside the premises showed people being removed from the premises. Door supervisors alerted DDC's CCTV of a fight at the premises.

- (xi) Footage from DDC's CCTV cameras offered a wider view of the precinct and premises where Members were able to witness the female on the pavement being cared for and numerous fights outside the premises and precinct. PC Rolfe advised there were approximately 30 people in the vicinity, and this increased. At 02:36 hrs two police officers arrived at the scene and called for back-up.
- (xii) From 02:36 hrs to 02:40 hrs Members viewed the police officer's body-worn camera and audio footage. This showed groups of people in the precinct involved in various fights and it took approximately ten minutes to disperse people from the area.
- (xiii) PC Rolfe stated the premises was a high generator of calls to Kent Police. Since the venue opened June 2019, there had been 114 calls to Kent Police and 70 recorded crimes at the premises. PC Rolfe advised these calls were made by various sources including staff at the premises, DDC's CCTV, Dover Partnership Against Crime (DPAC) and members of the public and that Lava Lounge Bar was the highest generator of calls to Kent Police in the town.
- (xiv) Staff at the premises had been encouraged to report all incidents to the police. Miss Tupper-Price was aware of calls made to the police regarding the off-licence opposite the premises that was open until 02:00 hrs and whose customers sat on the bench directly outside Lava Lounge.
- (xv) Members asked for details of the recorded crimes referred to. PC Rolfe was able to provide some information although details could not be provided. These crimes included affray, GBH and ABH.
- (xvi) It was felt by the Sub-Committee that insufficient evidence was provided regarding underage drinking at the premises. The police had received a report, but no evidence was found when a visit took place. Miss Tupper-Price advised that IDs were checked at the door by staff and they did not serve anyone underage.
- (xvii) It was recognised by both Lava Lounge Bar and PC Rolfe that there had been regular communication between both parties from when the premises opened in June 2019. Lava Lounge Bar had attended all multi-agency meetings and other arranged meetings held during this time for licensed premises in the town. Email correspondence from Lava Lounge to PC Rolfe was provided as evidence by Lava Lounge to support this. It was recognised by both parties that communications ceased when the review application was made.
- (xviii) Following the re-opening of the premises and the lifting of Covid restrictions in July 2020, and following a spike in incidents, multi-agency meetings were arranged by PC Rolfe to work with the premises to discuss their concerns and provide support to the venue.
- (xix) The incident on 21 November 2021 followed two previous multi-agency meetings.

- (xx) It was raised by PC Rolfe that Mr Ben Dowle, who was the Premises Licence Holder and Designated Premises Supervisor, had not attended these multi-agency meetings. Miss Tupper-Price stated his licence did not require him to attend face-to-face meetings and that she had attended instead. The premises was in the process of changing their Designated Premises Supervisor.
- (xxi) Miss Tupper-Price advised that noise and nuisance issues were discussed at the multi-agency meetings and that issues regarding fighting and spiking were not discussed or addressed. There was however mention of the issue of fights in some of the emails.
- (xxii) The suggested measures that had been made by the police and other agencies had been implemented at the premises. These included: joining DPAC radio, toilet checks, the closing of doors, staggering patrons' entrance to the premises, the calling of last orders at least one hour prior to closing and allowing patrons 15 minutes after closing to disperse.
- (xxiii) Following the implementation of these measures and following the multi-agency meetings the premises was unaware it was considered high-risk or that there were outstanding issues that needed addressing. They were only made aware of these issues upon receipt of the review application.
- (xxiv) Members put questions to Kent Police regarding the incident and footage, and the measures they would expect to be in place. PC Rolfe expected venues to be well managed and to have sufficient provisions in place to manage what happened inside a venue, such as the time last orders were called and to manage the capacity of the venue.
- (xxv) On the night of the incident there were two SIA door supervisors on duty which was required as a condition of the licence. Staff from the premises radioed other premises in the town and asked for assistance.
- (xxvi) Members were advised that it was normal at weekends for there to be three door supervisors on duty and one on weekdays which was more than currently required on their licence. On the night of the incident one of the door supervisors was taking part in a boxing match in Folkestone. Miss Tupper-Price advised that people from the match returned to Dover and the atmosphere in the town seemed hyped.
- (xxvii) Mr P James, DDC's Licensing Enforcement Officer advised the Sub-Committee of his involvement with the premises since it had opened. He had attended some joint meetings and had exchanged emails regarding noise complaints at the premises although these complaints were dealt with by the Environmental Health team.
- (xxviii) The Licensing Manager further advised of a total of seven complaints made to the Licensing authority over a period from May 2019 to December 2021, mainly relating to noise and also drugs although no complaints had been made regarding underage drinking.
- (xxix) It was the view of the premises that there was nothing they could have done to have prevented the incident on 21 November 2021. All

measures that had been asked of them had been implemented and this was a one-off incident that could not have been prevented. If the Sub-Committee were to reduce the hours for licensable activities to 23:00 hrs, it would not be viable for the premises to remain open.

- (xxx) The Sub-Committee was of the opinion that the incident on 21 November 2021 that led to the review of the licence was a significant incident and that the review application relied upon this. Prior to the incident there had been regular and positive communication between PC Rolfe and Lava Lounge and that since the premises re-opened in July 2021 there had been few issues other than noise complaints.
- (xxxii) On the night of the incident the door supervisor acted quickly although the incidents outside the premise escalated quickly. The Sub-Committee recognised that not all those who were there or involved were patrons of Lava Lounge Bar and it was noted that other venues were open.
- (xxxiii) The police provided information of 114 calls and of a number of crimes, but were unable to clarify who made those calls, the extent of the criminal acts and what the premise's involvement was in those events.
- (xxxiv) The Sub-Committee did not find sufficient verification to consider further the representation made by Erin Bell.
- (xxxv) The Sub-Committee recognised the steps the licence holder had taken to address the issues raised with them prior to the incident and the decision being taken to remove the current Designated Premises Supervisor. They also considered that the police had actively sought to assist the venue and the effectiveness of that, prior to 21 November, was reflected in the emails and the Sub-Committee hoped that that relationship would continue
- (xxxvi) It was the opinion of the Sub-Committee that to revoke the licence would be a disproportionate action as a result of the one incident, even though it was considered significant.

In reaching its findings the Sub-Committee considered the following:

- (i) Dover District Council's Licensing Policy
- (ii) The Licensing Act 2003
- (iii) Article 6 of the Human Rights Act
- (iv) Section 17 of the Crime and Disorder Act 1998

RESOLVED: That, in respect of the Premises Licence for Lava Lounge Bar, the Sub-Committee resolved to

- (a) Vary the conditions on the licence as follows

SIA

- (i) Friday and Saturday (including public holidays and seasonal variations) there will be 3 Security Industry Authority (SIA) door supervisors from 20:00 hrs until 30 minutes after closing.
- (ii) Sunday – Thursday there will be 1 SIA door supervisor from 20:00 hrs until 30 minutes after closing.

The meeting ended at 1.47 pm.