

To Sarah MacDonald, Senior Licensing Officer
From Mark Wootton Senior EHP
Telephone 01983 823000
Email mark.wootton@iow.gov.uk
Date 3 August 2015
Subject Licensing Act 2003 ("The Act")
Premises Licence Review
Beachside Club, Fort Warden Holiday Village, Fort Warden Road, Totland, Isle of Wight PO39 0DA

Memo

By virtue of Section 13 (4)(c) and 13 (4)(e), Environmental Health is a responsible authority and may make representations to the Licensing Authority over applications for the Review of Premises Licences.

There are instances of disturbance and nuisance from the Beachside Club recorded on Environmental Health database. The instances are summarised as follows;

27 Jan 2007	Complaint received regarding amplified music from premises. Loud music witnessed at 01.30hrs.
7 May 2008	Noise Abatement Notices served on Mr Rodney S Hopkins and Pauline Hopkins under S.80 of the Environmental Protection Act 1990 following witnessing of noise nuisance from amplified music and singing on 4 May 2008.
23 May 2009	Noise witnessed at level 'likely to cause disturbance'. Reminder regarding notice subsequently sent.
4 August 2014	Complaint received regarding disco to 3am.
9 March 2015	Complaint received regarding noise, violence and drugs. Noise throughout the week from 7pm until 1am.

Following the most recent complaint environmental health considered the content of the premises licence and noted that *"it is currently inadequately conditioned to uphold the licensing objectives. The premises are licensed 24 hours a day for the sale of alcohol and recorded music without any conditions or restrictions to prevent nuisance arising"*. There are properties within the wider holiday complex and other residential properties within 100 metres of the club.

It is understood that it has been proposed by the Police that the club opening hours be restricted to 10.00am to 11.30pm. This terminal hour is likely to result in a reduction in disturbance to nearby residents from patrons accessing and egressing the premises.

Considering all the above and having regard to the Licensing Authority's guidance issued to applicants and its Statement of Licensing Policy 2014-19, this section requests that conditions be attached to meet the licensing objective for the prevention of public nuisance. These recommended conditions are considered to be precise, enforceable and reasonable.

After 23.00hrs, any amplified sound (live or recorded music or vocal) from the premises shall be contained within the premises, or be at a limit which will be barely audible* at the boundary of the nearest residential premises.

*Barely audible is defined as at a level that, whilst it may be audible (heard), is so low in volume that distinct lyrics, tunes, musical instruments and any bass beat cannot be discerned at the boundary of the nearest residential/noise-sensitive premises.

Many thanks for consulting this section.

Mark Wootton

To Sarah MacDonald – Senior Licensing Officer
From Andrea Bull – Licensing Officer
Telephone 6126
Email andrea.bull@iow.gov.uk
Date 28/07/15
Subject Licensing Act 2003 (“The Act”)
Application for Review of the Premises Licence
Beachside Club, Fort Warden Road, Totland, Isle of Wight PO39 0DA

Memo

By virtue of Section 13 (4)(za) of the Licensing Act 2003, the Licensing Authority is a responsible authority and may make representations on applications made under the Act.

It is the view of the Licensing Authority is that at the time of the application this site was operating predominantly as a holiday complex and the clubhouse was in effect no different to that of a hotel bar, many of whom would also have applied for the provision to sell alcohol 24 hours a day to guests.

Since 2005 the nature of the site has changed considerably. Many of the units have been leased and sub-let and there are several long term residents in situ. The site no longer appears to be operating predominantly as a holiday complex.

On four separate occasions since the grant of the licence the Licensing Authority has been required to address complaints that have been received mainly in respect of noise nuisance in the form of loud music along with allegations of anti-social behaviour from persons frequenting the premises. Whilst the database shows only four complaints, on closer review some of these instances have required protracted and ongoing involvement from the Licensing Section.

In February 2007 it was necessary for an officer to attend the premises with the police to discuss two complaints that had been received regarding allegations of noise nuisance and anti-social behaviour from persons frequenting the premises. It was also necessary to discuss with Mr Hopkins the manner in which the premises were being operated. Mr Hopkins was advised that the practice of allowing ‘locals’ to sign themselves in as guests after leaving other licensed premises in the area was not acceptable and not in accordance with the conditions of the premises licence.

Mr Hopkins was also advised that Environmental Health did not consider the premises to be suitably soundproofed in order to allow the playing of recorded music beyond midnight and before 11:00 hours in the morning.

As a result of this meeting Mr Hopkins agreed to sign a voluntary undertaking restricting the hours that licensable activities could take place to midnight with the premises being vacated by 00:30 hours. He also agreed to “tighten and restrict club membership”, however this was not signed until 20 March 2007. Mr Hopkins also inserted a caveat stating that he would review the situation at the end of June 2007.

On 4 May 2008 the Licensing Section were made aware of a further complaint via Environmental Health of loud music at The Beachside Club. The complaint had been made by a local resident. An abatement notice was served on Mr & Mrs Hopkins by Environmental Health on 7 May 2008.

On 9 May 2008 the Licensing Section received a query from the Town Centre Manager of Freshwater and Totland who stated that he had received complaints about noise from entertainment from the premises on Saturday 3 May 2008 that went on until 00:30 hours on the Sunday morning.

On 6 August 2014 a further complaint of noise nuisance was made to the Licensing Section by a resident of Beachside Bungalows about loud music on 4 August 2014. The complainant stated that live music went on until midnight followed by a disco until 03:00 hours. The complainant also stated that the premises did not appear to be running as a club and that there were signs up the road advertising the premises to the general public. Various enquiries were made and an appointment was made to carry out an enforcement visit to the premises on 19 September 2014.

A joint visit was carried out with PC Bradley of the Police Licensing Unit to the premises. Present was the premises licence holder Mr Hopkins, the DPS Mr Pat Bayliss, and Rachel D'Cruze the niece of Mr Hopkins. Mr Hopkins stated that it must have been his birthday party on 4 August as it is his birthday around that time.

Officers asked to see the membership file and the guest signing in book. Neither were deemed satisfactory in their content. Again it was explained to Mr Hopkins that the premises licence requires the premises to be operated as a club and he was reminded that he had a twenty four hour licence because the site used to be predominantly holiday lets and the licence was for the benefit of on-site guests.

PC Bradley also commented on several of the names of persons barred from the premises - whilst they may now be barred it indicated the sort of clientele that has previously been allowed to frequent the premises. CCTV was also discussed. Mr Hopkins said that he had a CCTV unit in the office that had never been installed. The officers suggested that, although there is currently no legal requirement for the premises to have CCTV, they are in a very isolated location and quite vulnerable and it would be a good idea to install the CCTV.

A follow up visit was made by the same officers on 30 October 2014. At this time improvements were found to have been made. The DPS was informed that follow up visits would be made to ensure that the improvements were being maintained.

On 3 March 2015 the Licensing Section received an email forwarded from the Police Licensing Unit. The email had been sent by PS 24205 Lyth raising serious concerns regarding reports of anti-social behaviour from the premises along with concerns as to how the premises were being managed on a day to day basis. Further concerns were raised at the names in the signing in book with a comment from the officer to say "those that had used their real names". The DPS, Pat Bayliss was also unable to locate the refusal log when asked.

As a result of these concerns a joint police and licensing visit took place on the evening of 13 March 2015. My own notes from this evening are as follows:

"Attended Beachside Club at approx 2110hrs on 13/3/2015 with PS Lyth, PC Bradley, 3 other officers and 3 PCSO's. Myself, PC Bradley, PS Lyth and one other officer entered the premises. On entering 3 people were leaving and there were 3-4 other persons inside. Pat Bayliss, the DPS, was present and he advised that Rodney Hopkins the premises licence holder was back from Spain but was out that evening. PS Lyth asked for the music to be turned down and myself, PC Bradley and the DPS sat at a table to discuss the reasons for our visit.

PS Lyth was looking at the membership folder and the signing in book. We discussed with Mr Bayliss that over recent weeks there have been several reports of anti-social behaviour in the area which were believed to be attributed to persons who had been drinking at the premises.

Mr Bayliss did not dispute that there had been incidents in the area and agreed that some of them may have been connected to the premises. Mr Bayliss had a fairly laid back attitude. He accepted that we were doing our jobs but said that he does not want the hassle.

An officer advised that the 3 people who were leaving when we arrived had been asked for their membership cards, 2 claimed to be members but were not listed in the membership log and the other claimed to be a visitor but had not been signed in. We inspected the membership log and signing in books further, many of the application forms for membership that had been completed

since our last visit had been poorly completed and were incomplete - no date of birth, no proposal or secondment by a member, not signed etc.

One individual(under 18) entered the premises on 21/2/15 with an 18 year old. The DPS assumed he was also 18. He did not admit to selling him alcohol but there was no record of him having been asked for ID or refused service, Mr Bayliss said that he has now been barred anyway. However he is still shown as member in the log and there is no mention of any barring.

The constitution which is displayed on the ceiling of the club was outdated (1 Jan 2008), it states that officers of the club will resign their positions each year but can be up for re-election. Two of the officers named were unknown to Mr Bayliss who has been there for 2 years. Mr Bayliss also said that there has been no AGM in the 2 years since he has been at the premises. We discussed with Mr Bayliss the possibility of someone else becoming DPS and said that we would like the licence holder to apply for a minor variation to update the conditions on the licence. Mr Bayliss said that he doesn't need the hassle and seemed agreeable to someone else becoming DPS or closing the premises altogether. He said that he would close the premises for the rest of the evening but it would be up to Rodney Hopkins as to whether they opened the following evening. Agreed that a meeting will be held in the near future with myself, PC Bradley, PS Lyth, Mr Hopkins and Mr Bayliss to discuss a way forward."

On 26 March 2015, officers held a meeting at Yarmouth Police Station with Mr Hopkins and Mr Bayliss, Rachel D'Cruze also attended. Mr Hopkins claimed to be unaware of all incidents. PC Bradley explained that there is a growing number of complaints and that it is the view of officers that the licence is currently unfit for purpose and the conditions attached do not go far enough to ensure that the licensing objectives are upheld. Mr Hopkins was very resistant to any changes being made to the licence. Officers re-iterated their belief that the licence conditions need amending in order to uphold the objectives.

A list of proposed new conditions had been prepared and each of these was explained to Mr Hopkins along with the reasons for believing them to be necessary. Mr Hopkins stated that he wanted time to consider the conditions.

On 29 April 2015 officers returned to The Beachside Club for a pre-arranged meeting with Mr Hopkins and Mr Bayliss. Mr Hopkins stated that he does not believe there is anything wrong with his current licence and he would take his chances at a review.

In summary, officers of the Licensing Authority have attempted to work closely with the police to address fairly frequent and ongoing issues of anti-social behaviour, noise and the poor day to day management of the premises. This has been evidenced since 2007. Despite efforts to work with and advise both the licence holder and DPS, improvements to the operation of the premises have proved short lived and the attitudes displayed by both have repeatedly been that of denial, disinterest and complacency. Little interest has been shown to the upholding of the licensing objectives or the impact that issues associated with the premises have on local residents or the wider community.

The Licensing Authority therefore support the police in their application to review the premises licence and their recommendations.

Kevin Winchcombe, Principal Licensing Officer, will be attending the hearing to present this representation.

Regards



Andrea Bull
Licensing Officer