

**Unconfirmed**



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Thomas Crisp Room, Riverside, Lowestoft on **Wednesday, 5 June 2019 at 9.30am**

**Members of the Sub-Committee present:**

Councillor Paul Ashdown, Councillor Edward Back, Councillor Janet Craig, Councillor Steve Wiles

**Other Members present:**

Councillor David Beavan

**Officers present:**

Sarah Davis (Democratic Services Officer), Paulette Holland (Licensing Officer), Leoni Hoult (Licensing Officer) and Kerry Woollett (Litigation Lawyer)

**Others present:**

Mr T Piggott (applicant), Mr W Hancock (objector) and Councillor J Jeans (Southwold Town Council).

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**1 Election of a Chairman**

**RESOLVED**

That Councillor Ashdown be appointed as Chairman for this meeting.

**2 Apologies for Absence and Substitutions**

There were no apologies for absence or substitutions.

**3 Declarations of Interest**

No declarations of interest were made.

**4 Application for a Variation of Premises Licence: Curious Pier, Southwold**

Members of the Sub-Committee and Officers were asked to introduce themselves. The Chairman explained that Councillor Wiles was present as a Substitute in case anything happened to a Sub-Committee Member before the Hearing commenced, or during it, as the Substitute could then take their place. He stated that Councillor Wiles would remain for the duration of the Hearing and, for training purposes, would retire with the Sub-Committee when it was considering its decision. All parties were asked if there were any objections to the Substitute retiring with the Sub-Committee and no objections were made.

The Chairman asked the applicant and interested parties to introduce themselves.

The Chairman asked if all parties had received the papers for the Sub-Committee, including the applicant's statement amending his application to include three new conditions which had been submitted following his recent site visit with interested parties. All parties confirmed that they had received all of the paperwork. In response to the Chairman's further query, all parties to the Hearing confirmed that they did not wish to withdraw their application or representation.

The Sub-Committee received report ES/0029 from the Cabinet Member with responsibility for Community Health which detailed an application for a variation to an existing premises licence at Southwold Pier by Curious Pier Limited. The Licensing Officer reported that the application sought to add films indoors and outdoors Thursday to Sunday, live music outdoors Monday to Sunday and anything similar to live and recorded music outdoors Monday to Sunday. The application for a variation to a premises licence was subject to a 28 day consultation period which in this case expired on 9 May 2019. As a result, 11 representations were received from other persons and they were deemed to be relevant under the terms of the Licensing Act 2003. These representations were included at Appendix C of the report and, as of last night, one objector had withdrawn their objection. It was confirmed that no objections had been received from Responsible Authorities.

Since publication of the Sub-Committee report, a meeting between the applicant and some of the objectors had taken place at Southwold Pier. As a result, the applicant confirmed to the Licensing Team that he wished to amend his application and submitted a statement including three new conditions that he would like the Sub-Committee to consider. The Statement was then forwarded to the Sub-Committee and all parties yesterday.

The Licensing Officer referred to the main points for consideration as identified within the report, including having regard to guidance issued under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the Human Rights Act 1998. Members were asked to give full reasons for departing from these if it chose to do so. The Sub-Committee was asked to determine this application by:

- Granting the application subject to any mandatory conditions and to those consistent with the application.
- Granting the application subject to the same conditions but modified to such an extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives.
- Or by rejecting the application.

Depending on the decision of the Sub-Committee, both the applicant and the other parties that had made representations had rights of appeal to the Magistrates' Court. When announcing its decision, the Sub-Committee was asked to state its reasons.

The Chairman invited questions from the Sub-Committee to the Licensing Officer.

Clarification was sought on whether there was a Licence for the Pier to sell

alcohol. The Licensing Officer referred to Appendix A which showed the current conditions of the Licence for the Pier which included the sale of alcohol and recorded music etc. but it was clarified that this was all indoors.

There being no further questions to the Licensing Officers, the Chairman invited the applicant to expand on his application for a variation of the Premises Licence.

The applicant stated that the aim of the application was to drive up footfall to the Pier as it had been declining and he gave details as follows:

(a) Film Nights - These would take place on a Thursday up to 11pm with a maximum of 70 people held at the very end of the Pier, which had been agreed with the Fire Officer, because that was where the least amount of footfall was. He hoped it would also induce those people to use the other facilities on the Pier such as having a meal and/or drink. Film nights would be promoted on social media which would also promote the Pier generally. The applicant pointed out that increased footfall on the Pier increased employment opportunities which helped locals given it was such a seasonal town. He also acknowledged that stating Thursday to Sunday on the application form had been too vague and after speaking to residents at the meeting, he wanted to confirm that the intention was that there would only be a maximum of eight films between 18 July to 5 September. He referred to sound testing which had taken place on Saturday morning and stated that this had shown the sound had not travelled further than the first shop on the Pier because the speakers had been facing the sea. He acknowledged the concerns raised about noise but stressed that he wanted to keep these small and unique to fit in with the slightly quirky feel of this quintessentially British Pier.

(b) Live Music - The applicant explained that the intention was that they would run between 10am-6pm from May to September at the end of the Pier. He clarified that, whilst the original application had stated 7 days per week, this had now changed to 1 day per week and that might not even be every week. The type of music would not be rock but would be live music e.g. from a harpist or string quartet which would be suitable for being on the Pier and he confirmed that a music set would not last longer than 3 hours. He added that he was happy for any conditions to be imposed.

(c) Live and Recorded Music - The applicant confirmed that this had been removed from the application.

The applicant reiterated that the application was now for the film nights and 1 day per week May to Saturday for music, both to take place at the end of the Pier. He stated that he had two letters of support from residents that lived at Pier View Gardens who had not been able to hear any noise from the test whilst sitting on their balcony. He pointed out that all the other objectors lived further than 200m away and would not be able to hear anything. He reiterated that, whilst there was nothing between the Pier and the other objectors, the closest residents to the Pier had no objections.

The Chairman asked the Sub-Committee if they had any questions for the applicant and clarification was sought on whether amplification would be used. The applicant responded that it depended on the day e.g. whether the waves were crashing but if it was needed then it was likely to only be a single battery amp similar to one that a busker would use. A query was raised as to whether the applicant had considered

asking attendees to wear earphones for the film nights and he responded that he had but this would require wifi/bluetooth and there was not enough wifi available at the back end of the Pier and it would cost too much to get the wifi extended.

There being no further questions from the Sub-Committee, the Chairman invited Officers, the Parish Council representative and the Objector to ask questions of the applicant.

The objector asked the applicant to confirm that, since the original submission to the Licensing Authority, he had now agreed to change the wording to limit music sets to three hours. The applicant confirmed that he was happy for the licence to be amended to this effect. The Parish Council representative asked the applicant to be more specific regarding amplification and the applicant responded that it would only be as loud as what had been heard on Saturday which had been the maximum volume, however, he was happy to submit amplification details. The Parish Council representative asked if this could be a condition on the Licence and the Litigation Lawyer confirmed that it could be a condition if the Sub-Committee decided that it wished to impose it. The Parish Council representative stressed that the original variation application had been unacceptable but since then the applicant and Ward Councillor Beavan had been instrumental for taking this forward to allay residents' fears.

There being no further questions to the applicant, the Chairman invited the objector to address the Sub-Committee. The objector stated that the test had been audible at the end of the Pier but not at the shoreline so on that basis, and given the assurances made by the applicant, he wished to withdraw his objection.

There being no questions to the objector, the Chairman asked the Parish Council representative to address the Committee. The Parish Council representative stated that they also wished to withdraw their objections. She added that the Parish Council were now supportive of the applicant's intentions since Councillor Beavan had arranged the site visit, therefore, if the applicant could provide details of the amplifications she was sure that would enable everyone's concerns to be addressed.

The Chairman invited the Sub-Committee, applicant and Officers to ask any final questions.

The Litigation Lawyer referred to page 124 of the Guidance and asked the Licensing Officers to clarify whether this meant that an application to provide music on the Pier was actually necessary. The Licensing Officer responded that it depended on the plan and she confirmed that, in this particular case, the whole of the Pier area had been outlined in the plan so it was all covered for the sale of alcohol. She explained that this meant that, since de-regulation, the applicant could already have live music up until 11pm and the only part of the current application the Sub-Committee could deal with was the film nights. The Licensing Officer clarified that live music from 8am-11pm was fine provided the premises was authorised to sell alcohol and the audience was less than 500 people. In other words, the applicant did not require a Licence to play live music as it was not a licensable activity which also meant that the Sub-Committee could not impose any conditions relating to this.

The Parish Council representative stated that the Pier was a lot of open space with

several buildings on it and she asked the Licensing Officer to clarify if she meant that it was possible to sell alcohol on the whole Pier. The applicant stated that he had a full Entertainment and Alcohol Licence for the whole of the Pier. The Licensing Officer confirmed that it was the whole Pier not just the retail outlets and because of the de-regulation of licensing, this meant the applicant did not need a Licence to play live music. The objector sought further clarification that this meant that music could be played on the whole of the Pier and the applicant confirmed this but gave a commitment that they would only do so at the end of the Pier.

There being no further questions or requests to sum up, the Chairman stated that the Sub-Committee would adjourn to consider its decision whether to grant a variation on the Premises Licence for the film nights only.

The Sub-Committee adjourned at 10.05am to make its decision, together with the Litigation Lawyer and the Democratic Services Officer. The Sub-Committee reconvened at 11.13am and the following Decision Notice was read out by the Chairman:

*"Curious Pier Ltd has applied to vary the premises licence at Southwold Pier, North Parade, Southwold, IP18 6BN.*

*This hearing has been held as 11 representations were received from members of the public against the application.*

*The variation was to add the following activities to the licence:*

- 1) Films – Thursday to Sunday (indoors and outdoors) 18:00 to 23:00*
- 2) Live Music – Monday to Sunday (outdoors) 10:00 to 18:00*
- 3) Anything similar to live and recorded music – Monday to Sunday (outdoors) 09:30 to 20:00*

*The objections were based on noise and the disruption and intrusiveness that outdoor events would cause to local residents.*

*Mr Piggott attended the hearing on behalf of the applicant.*

*Mr Piggott explained to the Sub-Committee that he had met with local residents in relation to the representations and as a result of this meeting would be willing for the proposed variations to be amended as follows:*

- 1) Film nights to run on a Thursday evening through the summer holidays till 11pm. A maximum of 8 screenings from 18<sup>th</sup> July to the 5<sup>th</sup> September.*
- 2) The option to run live music one day per week between the hours of 10:00 and 18:00 from May to September at the end of the pier furthest from the shore line. This is likely to be during holidays and bank holidays, not once a day every week between this time, it is just a time frame to cover spring/summer time and a music set is unlikely to be more than three hours.*
- 3) Anything similar to live and recorded music to be removed for the application is too*

*ambiguous.*

*It was confirmed that the current premises licence authorises the sale of alcohol along the length of the pier.*

*Mr Piggott explained that the maximum capacity at the end of the pier was 70 people, fire safety had confirmed this with him. He said that the purpose of the events was to increase footfall to the pier during times the pier is currently at its quietest.*

*Mr Piggott said that he had carried out a sound test which confirmed that the sound did not travel any further than the first shop on the pier as the sound faces out towards the sea.*

*Mr Piggott said that it was not his intention to increase the noise of the pier, he wanted the pier to remain quiet as this contributed to the uniqueness of the pier which was essential for his business.*

*Mr Piggott said that the pier did not have the capacity to hold large concerts and that fire safety would not approve such events. The type of music that would be played would be classical music. Mr Piggott said that he would be happy for a further amendment to the conditions in that no music set would be more than three hours.*

*Mr Piggott confirmed that all the activities would occur at the end of the pier and that the closest resident to the pier had confirmed the noise could not be heard from their premises during the sound test.*

*Mr Piggott confirmed that depending on the conditions it could be necessary for the music to be amplified through an amp. The amp that would be used is a single battery amp similar to that which a busker would use.*

*Mr Piggott was asked if he had considered using ear phones for the film nights. Mr Piggott confirmed that he had considered this though it required WiFi and there wasn't a strong enough WiFi signal at the end of the pier. To put in such WiFi would require tens of thousands of pounds investment.*

*Mr Piggott was asked to confirm the type of amplification that would be used and if this could be included in the licence. Mr Piggott did not have these details though said he would be happy to provide them.*

*Two of the persons that made representations attended the hearing. One confirmed that the original application was not acceptable though as a result of the meetings, the changes proposed by Mr Piggott and the assurances as to how the activities were going to be run they no longer had any issues with the application and would like to withdraw their representation. This person also confirmed that they had attended the sound test and sound could not be heard beyond the shoreline.*

*The other person making representation said that they would like conditions which would specify the location of the activities and the amplification to be used.*

*The Sub-Committee has noted the commitments that Mr Piggott has made in relation to live music, however, it is mindful that no licence is required for the performance of*

*amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500 people. Therefore the performance of live music as proposed by the applicant is not a licensable activity and the Sub-Committee cannot impose any conditions in this regard.*

*As for the showing of films, the Sub-Committee was satisfied that the sound from the films would not be heard beyond the shoreline. The Sub-Committee was also mindful that there had been no representations received from any responsible authorities in particular environmental health.*

*The Sub-Committee was therefore satisfied that the way in which Mr Piggott has proposed to show the films would not undermine any of the licensing objectives.*

*The Sub-Committee therefore determined to grant the application subject to the following condition:*

*1) Films may be shown on a Thursday evening until 23:00 from 18 July to 5 September. Film showings will be limited to a maximum of 8 screenings between 18 July and 5 September and the maximum audience capacity is limited to 70 people.*

*For the avoidance of doubt the original application for "Anything similar to live and recorded music – Monday to Sunday (outdoors) 09:30 to 20:00" is not to be included in the licence.*

*Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notice of the decision.*

*Date: 5 June 2019"*

The meeting concluded at 11.20am.

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Chairman