

Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Friday, 5th April, 2024 at 10:30am.

PRESENT

Councillors Stephen Evans, Neil Jones and Terry Taylor.

Councillor Darren Hobson attended the Meeting as a Substitute.

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
David Dodds	- Environmental Health Service Manager- East Lindsey
Martha Rees	- Legal Representative
Lynda Eastwood	- Democratic Services Officer
Laura Allen	- Democratic Services Officer

Also in Attendance:

Mr Victor Fox	- Director, Europa Fisheries Ltd and The Factory Rock Shop
Mr Ashley Fox	- Review Applicant
Mr Grant Shackleton	- Chattertons Solicitors
Mr Jack Staples	- Chattertons Solicitors
Mr Taj Bola	- Designated Premises Supervisor (DPS), LA Café
Mr Michael Kheng	- Kurnia Licensing Consultants

5. ELECTION OF CHAIRMAN:

Councillor Neil Jones was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Neil Jones be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR NEIL JONES IN THE CHAIR

6. APOLOGIES FOR ABSENCE:

Those present were noted.

7. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were invited to declare any relevant interests. None were received.

8. REVIEW OF A PREMISES LICENCE:

The Sub-Committee was presented with a report by the Group Manager, Public Protection which enabled Members to consider an application by Mr Victor Fox of Europa Fisheries Limited and The Factory Rock Shop, for a review of the premises licence held in respect of LA Café, 1 Grand Parade, Skegness, PE25 2UN.

Before proceeding with the hearing, the Principal Licensing Officer advised Members that there was the possibility of a request for an adjournment by the applicant and invited both parties to present their case.

Mr Grant Shackleston, Solicitor for the applicant, requested an adjournment and explained the history of the case.

Mr Shackleston further explained that proper testing needed to be carried out on the balcony following the water ingress into the applicant's property. Members were reminded that during the previous adjourned hearing on 2nd February 2024 there was a clear agreement between both parties that the premises licence holder would appoint an expert, to be approved and agreed by the Council, to carry out stress and deflection tests. Mr Shackleston advised that the stress and deflection testing was not carried out and that on 3rd April 2024 they received a report detailing some crude testing from the Environmental Health Service Manager. The report advised that the balcony was safe, however, there was a comment in the report stating 'no reliance can be placed on my findings'. Mr Shackleston commented that the applicant felt that there was still a real risk that the balcony was unsafe.

Mr Shackleston informed Members that proper testing needed to be carried out and if the balcony was then shown as being safe the application would be withdrawn. He commented that there was a need to adjourn the hearing if the licence holder was agreeable to the testing but, if he was not willing to carry out the testing, the applicant would like their expert present at the hearing.

Mr Kheng was invited to present his case.

Mr Kheng commented that his client had agreed to do some deflection testing but after contacting several companies they were told it was pointless as deflection had already occurred. The reason for this was because Mr Bola had put 8 IBC containers on to the balcony filled with water which was estimated to be the weight of 103 people. Currently, 6 of the containers were still on the balcony and full of water. Mr Kheng explained that the water would have to be removed in order for the balcony to go back to its original state and that would take several months. Mr Kheng further explained that a crash pad would need to be placed under the balcony in case it fell, which would result in the businesses being closed for the summer. Mr Kheng commented that if the balcony was not safe it would have collapsed by now.

Mr Kheng advised Members that although they had agreed to carry out the deflection testing, they were unable to find anyone to undertake this

service and that it had since become apparent that none of the attendees at the hearing on 2nd February 2024 understood what deflection testing was.

Mr Kheng referred Members to the report from Gateley Smithers Purslow Limited dated 26th September 2023 where it stated that there had been no major distress on the concrete edge of the balcony, no evidence of any major structural movement and no evidence of major distress.

To insist Mr Bola had another report commissioned was not acceptable as he had tested the weight equivalent of over 100 people on the balcony for 3 months and it hadn't moved.

Mr Kheng informed Members that Mr Bola could open the upstairs of the building as a fish and chip shop, not serving alcohol to remove the requirement for the premises licence and this use by itself could potentially fill the balcony with people. He commented that the application should be dismissed and made it clear that he was against an adjournment. The meeting date had been communicated to all parties and to adjourn would incur costs for his client and the tax payer.

Mr Shackleston responded to Mr Kheng's comments.

Following which, a discussion ensued in relation to the balustrade as Mr Shackleston raised his concerns relating to the fixtures and fittings which he considered looked loose and insecure and stated that proper testing needed to be undertaken. He commented that if testing was not carried out then he would request that his expert be invited to make representations to the Sub-Committee.

Mr Kheng advised Members that the balustrade was incomplete and would be tested once completed.

The Members left the Meeting at 11:02am to discuss the adjournment and returned to the Meeting at 11:24am.

Following which it was,

RESOLVED

That the Application for Review of a Premises Licence for the premises known as LA Café, 1 Grand Parade, Skegness be adjourned to week commencing 13th May 2024 on the basis of the request for an expert witness to attend on behalf of Mr Fox.

The Meeting closed at 11:25 am.