

Our ref: SE1/ET2/LLO723.1
Your ref:
Please ask for: Stephen Eccles
Date: 18 August 2021

Dean Wilson LLP Solicitors
Ridgeland House
165 Dyke Road
Hove
East Sussex
BN3 1TL

Dear Sirs

The Fox Eating and Drinking House, West Hoathly

Thank you for your letter 11 August 2021.

Your letter does not reflect the Licensing Act 2003 framework and objectives. You state its unnecessary for our client to be the DPS but then go on to say our client in resigning the role of DPS will prevent The Fox from trading and is therefore a derogation from the lease. Plainly these statements conflict, and they are incorrect in any event, which we will explain below.

Background

Our client is the premises license holder (PLH) of The Fox, and was the DPS whilst personally operating The Fox.

Your client entered the premises on a tenancy at will and was subsequently granted the lease and became DPS at that time.

In 2016, our client as PLH was called to the pub by your client to mediate between Miss Kacey and your client, each alleging that the other was drinking too much, smoking cannabis, and generally creating havoc. As the PLH, our client gave both parties a stern warning. Despite this, our client understands drinking to excess and fights between them continued and the local police were called to instances at the pub. Our client understands that eventually Miss Kacey took out a restraining order (injunction presumably) against Mr Earley who was subsequently arrested for breaching it and take to Crawley Police Station.

Mr Earley was found guilty at Worthing Magistrates Court in 2018 with regard to breach food hygiene regulations and fined £1,600 (this would be a breach of the Licensing Objective - To Promote Public Safety).

Licensing offer Paul Thornton gave a number of verbal warnings to Mr Earley with regard to late night drinking at The Fox. Our client also received such verbal warnings in his position as premise license holder.

During lockdown in summer 2020, Police again attended The Fox on two occasions due to allegations of breach of Covid regulations by local residents (Breach of Public Safety Objective).

While under the influence of alcohol (in our client's opinion) both your client and Miss Kacey sent abusive text messages to our client and also to a former customer, these were again reported to the Police (Breach of Objective - Prevention of Crime and Disorder and breach of The Prevention of Public Nuisance).

As a result of the abusive texts, Miss Kacey was cautioned by PC Adam Duly in November 2020. Our client does not believe that your client took any action against her in his capacity as employer or DPS. As Paul Thornton commented to our client, the role of the DPS is to prevent chaos, not to create it (Breach of Objective – The Prevention of Crime and Disorder, and Prevention of Public Nuisance).

Christmas 2019/2020, there were so many complaints from local residents with regard to noise that the EHO supplied local residents with sound monitoring equipment. A warning letter was sent by Paul Thornton about noise and late drinking at this point in time. Jane Cooper of the Environmental Health Department has told our client that any application for music events at The Fox will be opposed by them due to the noise complaints over the summer of 2021. The Police were called in summer 2021 by local residents complaining of noise (Breach of Objectives – Prevention of Crime and Disorder, Prevention of Public Nuisance).

Licensing Act 2003

The Licensing Act 2003 and Section 182 Guidance combined with the Mid-Sussex Statement of Licensing Policy make up the framework within which The Fox operates.

The PLH has ultimate responsibility for promoting the four licensing objectives which as you know are:

1. The Prevention of Crime and Disorder;
2. The Prevention of Public Nuisance;
3. The Protection of Children; and
4. The Protection of Public Safety.

As can be seen from the above, two of these licensing objectives have been routinely breached by your client's operation of the premises.

It is the above that led our client to appoint himself as DPS earlier this year in an attempt to preserve the license and the viability of The Fox Public House.

Since becoming DPS, our client has been frustrated in his attempts to exercise control over the premises as is required by the DPS, in particular:

1. Miss Kacey, your client's employee, has attempted to prevent our client's exercise of his functions as DPS, for example, see her email 10 August 2021 which stated "yourself (or your girlfriend) are not welcome to enter.... And then only if necessary for insurance purposes....).
2. There are various occasions when your client has objected to our client being on the premises, on one of those occasions, both parties called the Police.

3. On 21 July 2021, there was yet again late drinking at The Fox.
4. As previously stated, the EHO Jane Cooper has told our client no music events will be permitted given the complaints over noise which occurred in July 2021 and in particular, the incident on 24 July 2021.

All the above are contrary to the LA03 objectives.

You have questioned why our client was at The Fox on 1 August 2021. Our client was there in exercising his functions as DPS in order to promote the licensing objectives. It is an undisputable fact, that a DPS cannot exercise the function with unrestricted access to the premises.

The DPS Position

Your client may nominate a DPS and if our client as PLH is satisfied they will promote the LA03 Objectives, our client will consent to their appointment.

Plainly, neither your client nor his employee Miss Kacey are suitable given the above matters.

If your client does not nominate a suitable DPS, our client may be willing to take the role again but only on conditions that will need to be strictly adhered to.

Quiet Enjoyment/Derogation from Grant

Our client has done nothing to interfere with quiet enjoyment or to derogate from the grant. Indeed rather the opposite, our client has done his best to facilitate the continued functioning of The Fox. Should the premises license be reviewed or withdrawn by the licensing authority, that will be the end of The Fox. Our client's efforts are aimed at ensuring that the premises license is not lost. That is why he became the DPS, the incidents referred to in this letter have made it impossible for him to fulfil the function hence the resignation. Such cannot possibly be an interference with quiet enjoyment or derogation from grant.

The Lease – Alterations re Decoration

Our client believes alterations may have been carried out without his consent, all rights are reserved in respect of this.

The redecoration covenant is plainly breached, on your client's own admission the redecoration was not done in May 2019 when it should have been. This was well before the pandemic and therefore the pandemic cannot be an excuse for this breach.

Please ensure your client is aware that any physical alterations to the premises require our client's written consent.

The Future

Your client must comply with the lease and in particular the redecoration clause forthwith.

Your client must appoint a DPS who has unrestricted access to the premises to ensure Licensing Act 03 Objectives are promoted.

Your client should consider the position of Miss Kacey given her role in the breach of the Licensing Objectives and in making our client's continued positions as DPS impossible. On this issue, our client as

PLH does of course have the right to bar her from the premises and would be more than justified in doing so based on the incidents which have occurred so far.

If your client would like our client to reappoint himself as DPS, please let us know and our client will then consider the strict conditions that he would take the appointment on. Compliance with the conditions would be a prerequisite and any breach would lead to our client's resignation.

Yours faithfully

Pinney Talfourd LLP

DRAFT

The Fox - Business Owners: Timothy Early/Claire Kacy

Pub Payments



K>email redacted

Aug 10,
2020, 5:45
PM

to email redacted

Let's be realistic here Paul!

Your emails are full of slander, lies, and threats! What do you expect us to reply? I can tell you Tim's replies are not sad, whiny or moaning! They are based on the true facts of the situation we are in due to the pandemic.

Not sure who your guy is at Christies Paul, maybe I should track him down, I'm pretty good at that as well! Our guy at Florets says otherwise.

This is what's going to happen from our end:

31st August you will be paid £2,400 plus buildings insurance, and this will continue on the last day of every Month, as per lease, depending on any other government rulings concerning our industry.

£5,400 deferred rent – payment plan will start in May 2021, payments dependant on turnover, I will ask our solicitor to draft a plan that suits.

Anymore threatening, demeaning emails, what so ever will be classed as harassment, and will be dealt with by our solicitor, whether in regard to Tim's or my personal circumstances or the running of our business.

Yourself (or your girlfriend) are not welcome to enter The Fox, unless a minimum of 24 hours notice is given, and only then if it is deemed necessary for buildings insurance purposes.

If this is not acceptable to you, then so be it. You continue with your solicitor route.

One thing I will say is, I have every single correspondence saved or recorded, weather it be email, phone conversations (recorded) or face to face (recorded) all filed, even going back to 14th November 2014, when you persisted with numerous phone calls and text messages, threatening me with eviction. Also recorded the mobile phone conversation of you telling me that I should let Tim hit me, one good thing came from having a stepfather whom was a Detective Inspector.

So there you go, there's my threat to you. Do what you will.

The Fox Eating and Drinking House

Claire Kacy
Highbrook Lane
West Hoathly
RH19 4PJ

t/redacted

<http://www.thefoxwesthoathly.co.uk/>



Paul Lloyd <email redacted>

Aug 11,
2020, 8:02
AM

to me

Clair

You are not the named lease holder for the Fox. My solicitor has advised I am not required to communicate with you in any regard.

What your business relationship is with Tim Earley is your concern but I note a payment plan has been set up for the backdated rent. In addition that after 6 years of trading Tim has eventually set up a DD to pay the rent on the due date for the correct amount.

Paul

From: [PL - email redacted](#)
To: [licensing](#)
Cc: [Jon Bryant](#)
Subject: FOX PUB PLH APPLICATION BY TIM EARLEY
Date: 17 September 2021 15:20:19
Attachments: [IMG_3104.jpeg](#)

With reference to the application by Tim Earley to be the PLH at the Fox pub west hoathly RH19 4 PJ

I had previously emailed in to say I would not object to Tim Earley application to be the PLH.

I made this decision to avoid further confrontation with Mr Earley as we are neighbours, and there have been violent verbal confrontations between us one reported to Police in December 2020. I have been provoked and harassed to fry and get me to move away at one point, the incident where Police were called I lost my cool, my actions were not in keeping with my role as PLH.

However considering the disinformation being circulated on the internet this week, posted on Facebook jointly by Tim and Clair Kacey I now do object to the appointment of Tim Earley as PLH.

Mr Earley I can say in my previous experience as a Police Officer has never in my opinion been interested in upholding any of the 4 licensing objectives laid down by Mid Sussex Council.

In fact Earley ignores the drinking up time rules, as recently as 21st July he still had 10 to 12 people drinking in the pub, see attached photograph.

As evidence of my statement it's also fair to say when Police are routinely called back time after time to the same premises such as the Fox it's usually due to the fact that the culprits involved are routinely ignoring the law.

As Paul Thornton said to me on many occasions Tim Earley when given advice seems to take it onboard but then ignores it at a later time.

Mr Earley sees the licensing act and the prevention of public nuisance as a joke. The licensing objectives routinely ignored.

Paul Lloyd freeholder and landlord Fox Pub



From: [PL - email redacted](#)
To: [licensing](#)
Subject: Fox Pub Application by Tim Earley to be DPS
Date: 17 September 2021 15:42:50
Attachments: [IMG_3110.MOV](#)

Ref my last email sent at 15.20 today.

The attached photograph was taken at 11.29 drinking continued until past 1145 as I have video evidence.

Routinely breaking the drinking up rules under the licensing act 2003

I attach the video this time.

Paul Lloyd

[Sent from Yahoo Mail for iPhone](#)