

**Minutes of a Meeting of the
WBC Licensing and Control Sub-Committee 'B' of
Worthing Borough Council**

Council Chamber, Town Hall, Chapel Road, Worthing

02 November 2016

Councillor Paul High (Chairman)

Paul Baker

Robert Smytherman

*Absent

LCCB/16-17/11 Declarations of Interest

Cllr Smytherman made a non-pecuniary interest as the Worthing Town Crier, he was an employee of the Worthing Town Centre Initiative who managed the Business Improvement District for the Town Centre.

LCCB/16-17/12 Public Question Time

There were no questions from Members of the Public

**LCCB/16-17/13 Licensing Act 2003 – Application for a new Premises Licence The
Woods Burger Kitchen, Worthing**

Before the Sub Committee was a report by the Director for Communities, a copy of which was circulated to all Members, a copy of which is attached to the signed copy of these minutes as item 3.

The report before members asked the sub committee to consider and determine the application for a new premises licence to authorise the sale of alcohol for consumption on & off the premises. The application had been the subject of formal representation by two responsible authorities, a number of local residents and a representation of support from the Ward Councillor, it therefore fell to this sub-committee to determine.

Licensing Officer introduces report

The Licensing Officer outlined the report for the Sub-Committee Members were told that Sussex Police and the applicant had part mediated, however Sussex Police held concerns that a hatch serving to the street did not uphold the crime and disorder licensing objective. It was confirmed with the applicant that the outline of the application was accurate.

Questions on the report from Members

There were no questions for the Licensing Officer

Representation from Sussex Police

The representative from Sussex Police made the following representation:

- Following dialogue with the applicant the police understood that conditions requested by the police had been accepted by the applicant;
- The primary concern of the Police was a serving hatch, which would almost certainly give rise to public nuisance and crime and disorder;
- It was felt that the inside area of the premises was more appropriate for the late night provision of refreshment than a serving hatch onto the street. Keeping patrons inside would improve the chances of reducing anti-social behaviour, disorder and public nuisance. This would protect residents from unnecessary disturbance;
- The applicant had not agreed with the removal of the hatch and the police had therefore kept its representation in place;
- Members were told that the applicant hoped to attract customers from the Libertine that closed at 1.30am. It was asserted that these customers would have consumed alcohol and noise was associated with this. Currently customers dispersed quite quickly and the Police had not received any noise complaints. It was anticipated that the creation of a hatch and associated queues could cause noise disturbance and could be a flashpoint for violence;
- The applicant had agreed to the employment of door staff who could better manage nuisance and disorder inside the venue. They would not be able to manage the same level of control outside on the street;
- It was stated that Sussex Police requested a condition be added that the supply of hot food be required to take place inside the premises after 23:00 hours and not served directly onto the street or that the closing time of the premises close no later than 23:00 hours every evening;
- A local Police Sergeant stated that the area was busy at 1:30am with people leaving nearby premises that were closing and that the area was frequented by members of the local street community. The Police Sergeant stated that he was concerned that the serving hatch could become a congregation point for intoxicated people and people of the street community. He foresaw that this would see an increase in public nuisance and crime and disorder;

Members questions for Sussex Police

A Member asked if the Police be content with the applied for opening times if the applicant didn't have the serving hatch. The Police representative stated from a crime and disorder point of view, that without the hatch the police would be find a 2am closing time acceptable.

A Member asked if there had been any reported problems with the Libertine. Members were told that they had not received any noise complaints, there had been one or two incidents but these tended not to be late into the early hours. Members were told that disturbance would be caused by the operation of a hatch, the associated queues and the likely use of benches currently situated outside the Libertine.

A Member asked about another bar in the vicinity and it was confirmed that the venue was closed and the premises was currently up for lease.

Applicant's questions for Sussex Police

The applicant stated that they would be happy to remove the hatch and could see the arguments against it as logical.

The applicant asked how many incidents had been recorded at other late night take away establishments in the area. The police stated that the figures were not relevant because each case needed to be considered on its own merits. It was asserted that the Police knew that late night takeaways were flashpoints for crime and disorder.

Representation from the Environmental Pollution Team

- The premises had applied to be open until 2am Thursday, Friday and Saturday and it was stated that there was concern that this would cause public nuisance if there was a serving hatch or if food were to be served inside the premises;
- The area was mixed commercial / residential and at 2am it was a largely quiet area;
- Complaints had been received in relation to the Libertine and noise in relation to customers departing the premises which demonstrated that there had been an issue with that area;
- There were concerns about noise nuisance being created by people arriving and departing, customers queueing and there had been no mention as to how smokers would be accommodated at the premises;
- Residents could expect a reasonable degree of quiet at that time of night and opening;
- In conclusion the representative told the sub-committee that if the application was approved as applied for it would likely cause a public nuisance mainly caused by noise.

Members questions for the Environmental Pollution Team

A Member asked if removal of the hatch would allay concerns of the Environmental Pollution Team. Members were told that the removal of the hatch would not allay its concerns.

Applicant's questions for the Environmental Pollution Team

There were no questions

Representation by Residents

Mrs McPherson stated that she had nothing to add to the representation she made in writing.

Mr Peter and Mrs Alison Hoskins made a representation as follows:

- There was concern that the introduction of a takeaway would lead to a delivery service that would bring delivery vehicles and motorbikes to the area creating additional noise;
- Due to the one way system in place in the area cars and taxi's visiting the premises would disturb residents that lived a greater distance away;
- People would probably visit the takeaway and sit in their cars listening to music whilst eating.

A Member asked if there had been incidents linked to premises nearby and was told that tenants had complained about noise and that one tenant had chosen to move away because of the nuisance.

Ms McDonald stated that she had nothing to add to the representation she made in writing.

Ms Kreel made representation to the committee summarised as follows:

- Members were told that there was a noise problem associated with drunkenness, loud conversation, vehicle engines ;
- The amenity of the residents was under pressure from public nuisance caused by premises in the area, if granted the application would push the nuisance too far in the wrong direction;
- The late hours applied for were not necessary for the success of the business because she felt that there was not the demand;

Mr Adams made a representation to the committee summarised as follows:

- He the area in which he lived was an 'echo chamber'
- The only time he could sleep was between 12am and 3am because of the noise of the late night economy and early morning deliveries;

A Member asked what time the resident felt was a reasonable time for the restaurant to close. Members were told that if it was just a restaurant then 1am would be reasonable.

Mr Elliot made a representation to the Committee.

- 2am was too late and that it would attract people from all over the town centre;
- Local residents had to employ security guards to remove people from a local car park at night and he was worried that the premises would exacerbate the problem;

A Member asked what time the resident felt was a reasonable time for the restaurant to close. The resident stated that 11 or 12pm was a reasonable hour.

Representation by the Applicant

The applicants made a representation to the Sub-Committee which is summarised as follows:

- Letters circulated around the area about the premises were misleading and had created the wrong image of the applicants in residents minds;
- The business had been made out to be a kebab house when in fact it was a gourmet burger restaurant;
- The premises had the necessary CCTV as stipulated by Sussex Police;
- Door supervisors had been hired. They were from the same company that supervised the Libertine which meant that if necessary door supervisors could 'double up' from the other premises;
- The applicants had put into place measures to address the conditions set out in the police representation;
- The applicants had approached other late night refreshment vendors in Worthing to get an idea of the types of challenge that they faced;
- The business was a family run enterprise and they had experience in working in the night time economy without issue;
- The business aimed to be a nice place where young people could go late at night to sit down and have a nice burger. It was purported that the ambience of the premises and the pricing of the product would attract a less disruptive customer;

- The business would support local business by buying its products locally, employ staff locally and be environmentally friendly;
- Bins would be provided outside the premises;
- The business had been receiving support locally;
- The applicant would be happy to talk with residents if they felt they had an issue about noise.

Questions for the applicant from Members

A Member asked about the applicants' experience of working in restaurants and was told that they had worked in restaurants from a young age and had run another restaurant for the previous six years.

A Member noted that the main concern from Sussex Police was the use of a serving hatch and asked if the applicant planned to have a hatch. The applicant stated that if there was a lot of objection to the hatch they were happy not to have it all.

A Member purported that the 2am closing time indicated that the business wanted to attract customers from another local premises that closed at 1.30am. A Member asked if the customers arriving at that time would be vital for the viability of the business. The committee were told that the business was open throughout the day and catered for different clients at different times of the day. They felt that there were not nice places to go late in the evening and felt that they had identified a gap in the market and it was an important part of the application.

Questions for the applicant from the Police

Sussex Police asked if the applicant was willing to accept the conditions in its representation. The applicant confirmed that they were acceptable.

A Member asked why the applicant wanted late opening hours on a Thursday and Friday and what type of customers it hoped to attract. The applicant stated that they didn't plan on opening that late throughout the year.

Questions for the applicant from the Environmental Pollution Team

The Applicant was asked how noise from those smoking outside the premises would be controlled. The applicant told members that smokers did not tend to congregate outside of restaurants as was the case with pubs and bars etc.

The applicant was asked if the putting out of bottles at night would be restricted. Members were told that there was already an existing planning permission that prohibited the premises from taking waste out after 10pm.

Questions for the applicant from residents making representations

Ms McPherson asked about the future operation of the business and was told that the applicants would operate depending on demand. The take away side of the service would operate until 10pm and the premises would act as a restaurant after that time as Planning permission was pending in this regard.

Mr and Mrs Hoskins asked about the future operation of the business. He asked whether there would be no hatch and how the takeaway would operate. The Meeting was told that there would be no hatch and that there was sufficient room inside the restaurant for customers to queue inside although long queues were not anticipated.

Ms McDonald asked how disorderly behaviour would be handled at the restaurant. The meeting was told that SIA approved security staff would deal with unruly behaviour. The applicant also clarified that alcohol would not be served after 11pm.

Ms Kreel asked how the applicant would control the noise of patrons visiting the restaurant. The applicant told the meeting that the SIA security staff would ask people to keep the noise down

Mr Adams asked if the applicants resided near the premises and was told that they did not.

Mr Elliot asked if the applicant's were expecting a fair amount of custom between 12am and 2am. The applicant stated that they were not expecting a large amount of custom but were looking to provide a service that didn't currently exist.

Mr Elliot asked if there would be a price differential between takeaway meals and eat in meals. The meeting was told that there was no price differential.

Summing up of the Applicant

The applicant did not have anything to add

Summing up of Sussex Police

The Police noted that the applicant had accepted the Police's suggested conditions and that there should be something put on the licence to stop the operation from a hatch.

Summing up of the Environmental Pollution Team

The representative stated that he welcomed the removal of the hatch. The representative still expressed concerns regarding the late terminal hour for the premises and the associated noise.

Summing up of residents that had made representation

Mrs McPherson had nothing to add

Mr and Mrs Hoskins had nothing to add

Ms McDonald had nothing to add

Ms Kreel stated that if the licence were granted then it would be detrimental to her.

Mr Adams stated felt that peace and quiet was being risked with the premises

Mr Elliot had nothing to add

The meeting adjourned at 7:57 pm to consider its decision

The meeting reconvened at 8.23pm

The meeting was told that in reaching its decision, the Licensing Sub Committee had given due regard to the Home Office guidance, the Council's own Licensing Policy and relevant licensing legislation. The Committee also gave regard to Human Rights legislation and the rules of natural justice. Due consideration was given to all representations made at the hearing and in writing. In discharging its functions the Sub Committee did so with a view to promoting the Licensing Objectives, the relevant objectives here were the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

Resolved: that the premises licence should be:

Granted for the sale of alcohol between 1200hours to 2300hours Monday to Sunday

Granted for the sale of late night refreshment between 2300hours to 0100hours of the following morning Thursday to Saturday

The licence will contain all of the conditions that are detailed at points 1 to 10 of the email from Sussex Police dated 3 October 2016 at page 29 of the Committee report. These were agreed by the applicant prior to the hearing in an email dated 13 October 2016.

The licence will also include the condition proposed by the Police, namely:
After 2300hours food shall only be provided to patrons within the premises and shall not be sold or supplied directly to persons on the street. This condition was agreed by the applicant at the hearing.

Reasons for decision: The applicant has taken into account the concerns of the Police, Environmental Health and local residents. The Council received 35 representations from local residents. Concerns raised by residents included parking issues and necessity, those concerns are irrelevant to this application and have been disregarded by the sub-committee. The residents also raised concerns of noise disturbance and an increase in anti-social behaviour, those concerns are relevant to this application and have been considered.

The licensing sub-committee has considered those representations but is satisfied with the additional conditions agreed by the applicant the premises licence for the grant of the sale of alcohol would not undermine the licensing objectives.

The sub-committee has limited the hours for late night refreshment until 0100hours rather than 0200hours as requested. The sub-committee has taken into account the concerns of the Environmental Health Officer and residents and believes that by limiting the hours until 0100hours this would not undermine the licensing objective of public nuisance.

Advice to Parties: Those who have made representations in connection with this application are reminded that they may appeal against this decision within 21 days by giving notice to the Magistrates Court

Interested parties are reminded that they may apply for a review of this licence 'after a reasonable interval' pursuant to section 51 of the Licensing Act

Any licence granted under the Licensing Act 2003 does not override any planning restrictions on the premises nor any restrictions that may be attached to the lease of these premises

The applicant is reminded that it is a criminal offence under the Licensing Act 2003 to carry on licensable activities from any premises in breach of a premises licence

The meeting was declared closed at by the Chairman at 8:23pm, it having commenced at 6.30pm.

Chairman