

Minutes of a meeting of the
Worthing Licensing and Control Sub-Committee
20 August 2019
at 6.30 pm

Councillor Charles James (Chairman)

Councillor Louise Murphy

Councillor Dawn Smith

LCCB/4/19-20 Declarations of Interest / Substitute Members

There were no declarations of interest

LCCB/5/19-20 Public Question Time

There were no questions from members of the public

**LCCB/6/19-20 Licensing Act 2003 - Application for a new Premises Licence
under Section 34 Pink Cafe, 38-42 Portland Road, Worthing,
BN11 1QN**

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.

Presenting Officer outlines application

The Presenting Officer introduced the report to the Committee and set out the background to the case. With regards to mediation members were told that the applicant had volunteered to accept suggested conditions from the Police. There were still representations from residents and environmental health that remained outstanding.

Questions from Members from the presenting Officer

A Member asked if mediation had taken place between the applicant and residents making representations. The presenting officers told members that mediation with a large number of residents would prove impractical and difficult.

Representation from Resident A

Resident A made a representation which is summarised as follows:

- The resident's main concern was the potential nuisance caused by noise;

- Plans for the karaoke rooms showed that they were situated on a wall adjacent to the entrance way to the 'back flat';
- The hours being applied for were too late and 23:00hrs was more suitable;
- The premises lacked a lobby so it would be difficult for the premises to stop noise escaping, the resident also mentioned that the premises only had single glazing;
- There would be noise outside the premises with smokers congregating and cabs arriving to pick people up.

Questions for Resident A

A Member asked a question about the location of the planned karaoke booths. There were no questions from the applicant.

Representation from Resident B

Resident B made the following representation which is summarised as follows:

- The resident told members that she lived further up the street and was concerned about the noise created by patrons leaving the premises;
- It was stated that noise from patrons leaving the premises and walking home could not be mitigated

Questions for Resident B

Resident B was questioned by members on other premises in the area. There were no questions from the applicant.

Representation from representative of Resident C

The representative for resident C made a representation which is summarised as follows

- The resident was very concerned about the application;
- He owned the property above the premises and his tenants had been expressing concerns;
- The application would have a detrimental effect on the people wishing to live there including a potential to harm children who may live above the premises;
- There was currently a planning restriction
- Planned karaoke was a noisy enterprise and it was difficult to consider what soundproofing could be installed to make it effective;

Questions for the representative of Resident C

There were no questions for the representative of Resident C from any party.

Representation from environmental protection

The representative from environmental protection made a representation which is summarised as follows

- There were residential properties above and adjacent to the premises;
- There was potential for public nuisance;
- There were other similar premises within the vicinity, however these premises did not have properties above them;
- Environmental protection had seen no evidence to suggest that proposed soundproofing was sufficient;
- Queues outside the building could cause noise;
- No specific plans had been submitted in relation to soundproofing and information that had been submitted was in the opinion of Environmental protection, insufficient.
- Information that had been submitted did not prevent air borne or structural transfer of noise;
- The costs associated with transforming the premises to become soundproof could not be underestimated.
- Noise from outside the premises was less of an issue as conditions agreed with the police.
- The applicant needed to hire a sound consultant
- The applicant had not adequately addressed noise issues and environmental protection could not support the application.

Questions for the representative from Environmental Protection

A member asked if there was an issue regarding protection of children from harm and was told that noise at late hours could potentially disturb a child's sleep if they were living in properties above the premises.

A Member asked how many noise complaints had been received in Portland road since Libertines and Manuka had opened and was told that ten complaints had been received with two currently ongoing. Complaints could be difficult to resolve and took a long time to investigate.

The applicant had no questions for the Environmental Health Officer.

Representation from the applicant

The applicant made a representation which is summarised as follows:

- The applicant's took the licensing objectives seriously as demonstrated by the operation of their other premises,
- With regards to the installation of a lobby, members were told that this is something that could be incorporated,
- Security personnel would be on hand to mitigate noise from people congregating in the smoking area,
- The premises was not planned to be a nightclub. It was the intention of the applicant that the premises be a restaurant where patrons could enjoy cocktails and some karaoke in soundproofed booths should they wish it,
- The karaoke booths would be soundproofed completely,
- There would be creation of airborne insulation which would create an insulation value of 50Db,
- Members were advised that the applicant did not want noise from the karaoke to carry to the rest of the restaurant let alone flats above the premises,

- The method of noise and odour extraction would not require the use of extractor fans outside of the premises.

Questions from Members to the applicant

A Member questioned the applicant about noise nuisance. Members were told that the applicants had contacted noise specialists and a karaoke premises in Brighton with regards to noise abatement. The road was due to be pedestrianised soon and this would lead to a reduction of vehicle noise on the road.

Responding to a question the applicant told the committee that advice had been sought from an acoustic specialist and had made some proposals as to how the building could be changed to prevent a noise nuisance. Members were told that the information had been presented as part of the planning process and had been sent to Environmental Protection albeit very close to the licensing hearing (the applicant was unsure if it had been received by the Environmental Protection team). Members were told that the applicant was willing to both carry out an acoustic impact assessment and make necessary changes to the fabric of the building. It was purported that acoustic tests were better carried out after changes to the building had been changed.

A Member asked the applicant if they had sought to mediate with residents and was told that it had proved difficult as in the case with a previous application. The applicant thought the Committee process was a better arena to explain the application.

Questions from the public to the applicant

A member of the public noted that the door opening and closing would cause noise to escape the premises. The application was very intimidating for the residential occupiers.

A member of the public asked what levels the background music would be set at in the premises and was told. The applicant stated that there were no plans to set levels, the music would be played at a volume whereby people were able to chat.

Questions from Environmental Protection to the applicant

The representative from Environmental protection informed the applicant that required db levels would be different than those stipulated on advice concerning a previous application. He asserted that tests should be carried out prior to any changes being made. He questioned the applicant on the times security guards would be employed. With regards to security the applicant stated that they were open to negotiation on the issue.

Summing up of the applicant

The applicant stated that it was the intention to promote the licensing objectives and for the business not to be obtrusive at all. The applicant was fully happy to have an acoustic test beforehand.

The meeting adjourned at 7.50pm and reconvened at 8.55pm

The meeting was told that In reaching its decision the Licensing Sub-Committee has given due regard to the statutory licensing objectives, Worthing Borough Councils

Statement of Licensing Policy, Guidance under section 182 by the Home Secretary and Licensing Act 2003. The application, written/oral representations made at the hearing and in writing. The Committee also gave regard to human rights legislation and the rules of natural justice. In discharging its functions the Committee did so with a view to promoting the Licensing objectives, the relevant objectives here were the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

Resolved: that the premises licence should be:

Granted for the sale of alcohol between 11.00 hours to 22:00 hours on Sunday, 11.00 hours to 23.00 Monday –Saturday.

Application is refused for regulated entertainment in the form of recorded music and anything of a similar description.

Granted to be open to the public between 08.00 hours to 22:30 hours Sunday, Monday to Saturday 08.00 hours to 23:30 Hours.

Refused to grant for non standard timings for licencing activity on New Year's Eve.

The licence will contain all the conditions that are detailed at Appendix D1 of the Committee report in the letter from Sussex Police dated 7th June 2019 and at page 6 of the Committee report. These were agreed by the applicant prior to the hearing in an email dated 11th June 2019.

In addition it is a requirement that sound proofing of the premises is carried out to the specification as agreed by the Environmental Protection Team.

The reason for the decision is:

The applicant has taken into account the concerns of the Police and conditions were agreed prior to the hearing.

The licensing sub-committee has considered the relevant representations made by the residents and environmental protection and was not satisfied that additional conditions could be made which would specifically address the relevant concerns raised. The committee were not satisfied that the concerns of prevention of public nuisance and the protection of children from harm namely the noise associated with the operation have been adequately addressed in the operating schedule or what was heard tonight and have curtailed the hours accordingly.

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 Licencing 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 when you do not have a licence in place and you may be prosecuted.

The meeting ended at 9.03 pm