

Minutes of a meeting of the
Worthing Licensing and Control Sub-Committee
15 September 2021
at 6.30 pm

Councillor Steve Wills (Chair)

Councillor Charles James

Councillor Cathy Glynn-Davies

LCSC/5/21-22 Declarations of Interest / Substitute Members

There were no declaration of interests / substitute members

LCSC/6/21-22 Public Question Time

There were no questions from the public

**LCSC/7/21-22 Licensing Act 2003 – Application for a Variation to the Premises
Licence - Manuka Bar & Kitchen**

Before the Committee was a report by the Director for Communities, a copy of which had been circulated to all members, a copy of which is attached to the signed copy of these minutes as item 3. The application has been the subject of formal representation by a responsible authority and members of the public and it therefore fell to the sub-committee to determine.

Introduction by the Senior Licensing Officer

The Senior Licensing Officer introduced the report to the Committee and updated the Committee on successful mediation since the publication of the report. Members were told that agreements had been made with Environmental Protection and three members of the public concerning the use of tables outside of the premises. Members were informed of an incident where the Senior Licensing Officer had asked the premises to turn the volume down during a Scrutiny investigation into the night time economy.

Members questions for the Licensing Officer

A Member asked about the noise incident whereby the Senior Licensing Officer had asked for the music to be turned down. Members were told that the management had not been aware that the sound was too loud and it was accepted that the premises had been short staffed and the manager had been working behind the bar at the time. The Council had received no formal complaint about noise that evening.

Representations of Members of the Public

Resident A made a representation which is summarised as follows:

- There were concerns about the volume of music from the premises;
- Flats close to the premises needed to have windows open during summer months which meant that there was no barrier from excessive noise;

- Noise leaked from the premises when people left and entered the premises;
- There was noise from patrons moving across to other bars in town;

A resident made a representation which is summarised as follows:

- There would be limited pavement space when tables were outside the premises;
- Issues from the premises lasted through the day and into the evening;
- The premises could cause anti-social behaviour;
- Residents close to the premises included young families with young children;
- Drunk people were outside the premises in the early hours of the morning;
- The area was not a transient area and there was a different demographic;

A resident made the following representation which is summarised as follows:

- The area was residential and not appropriate for a night club, locality was important when assessing nuisance;
- The area should not be associated with the Town Centre;
- Premises brought problems to the area that could not be controlled, noise from the street and car park could be directly attributed to the closing hours of the premises;
- Members were told that the resident had been woken by drunk voices and arguing in the early hours of the morning;
- People used walls and doors as urinals;
- A Cocktail bar was for drinking and partying it does not stop at one drink;
- If the premises could not control the behaviour of patrons leaving then the Authority should consider reducing opening hours of the premises;
- Tables and Chairs should not be placed in front of other premises and should use the space to the east.

Members questions for the resident making representation

A member asked about the types of anti-social behaviour caused by the premises and was told that it was difficult to link anti-social behaviour to one premises in particular

Representation by the applicant

The applicant and applicant's representative made a representation which is summarised as follows:

- There were no longer any objections from the Police and Environmental Health to proposed amendments to licensing hours, albeit with additional requirements being agreed with Environmental Health;
- The applicant's representative set out some further proposed amendments: that a variation of licensing hours be sought until 1am with 30 minutes closing thereafter, the only exception to that is as per the application originally applied for until 2am on Christmas Eve and New Year's Eve with 30 minutes closing time thereafter.
- The net effect of the proposed variation would be that there would not be any change to what is already in effect on Friday and Saturday, additional hours were being sought for Sunday through to Thursday

- Currently the last entry time was 12pm and it was asked that this be extended until 12.30pm
- Tables and chairs will be put in a large storage cupboard in the premises once removed from the pavement area
- There would be no vertical drinking on the pavement area;
- The Police had not made a representation;
- The application is reasonable fair and objective, the responsible authorities had agreed with that;
- Environmental Health conditions were proposing that the use will not commence until an acoustic survey was undertaken and a plan agreed;
- Volume of Music and the frequency of noise it was common for amplifiers to be limited and fitted with tamper proof equipment;
- An air conditioning system was due to be reconditioned which would mean that on hot days the temptation to open doors would be removed;
- The premises served customers finishing dinner and coming for cocktails following their food and the busy evenings meant that the earlier closing time led to a lot of patrons having to leave at once. The extended hours would create an environment whereby patrons could disperse over a longer period of time;
- The applicant explained the incident whereby the Licensing officer asked for music to be turned down. On the evening in question the premises had been short staffed and the manager had to work behind the bar and not able to monitor noise outside. SIA door staff were not the usual. Windows that were concealed from staff by closed blinds had been opened because of the heat. The premises to solve the issue were repairing air conditioning and placing locks on windows.
- An acoustic noise consultant had been hired to assess where noise was going, it had already been identified that a speaker on top of some stairs was causing an issue and that speaker was now turned off;
- The acoustic report would give the premises levels to set on the limiter of the amplifier.

Members questions for the applicant

A Member stated that that applicant had confidence that altering closing time would make a big difference in people dispersing from the premises and asked what the applicant based that confidence on. The applicant told members that patrons turned up late from a meal and the issue was that the time patrons had to have a drink was short, this had the knock on effect of patrons leaving all at the same time and moving on to other premises.

A Member asked if the request of the use of tables outside of the premises until 11 could be moved back to 10:30 and the applicant confirmed that this would be acceptable

Those who made a representation ask questions of the applicant

The applicant was asked why patrons leaving in dribs and drabs until 1:30am would help when the resident was being woken at 1:17am, 1:30am and then again at 1:40am. The applicant stated that hours mentioned were an hour after the closing time of the premises and the applicant took pride in making sure that patrons left a promptly and quietly as possible. Manuka was not the only licenced premises in the area. Someone was always outside the premises asking patrons to leave quietly. The premises was very strict on preventing intoxication. The resident clarified that the issue was on a Saturday night when no other premises in the area was open.

Applicant Summing up

The applicant's representative told members that the application with the amended conditions were fair, objective and reasonable. Conditions agreed did promote the licensing objectives

Those making representations to sum up

A resident stated that they did not think the application was objectively reasonable. There was an indirect nuisance which was substantial

The meeting adjourned to consider its decision at 20:30

In reaching its decision the Licensing Sub-Committee had given due regard to the following:

- 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 and prevention

Resolved: that the variation to the premises licence should be granted with all of the additional conditions agreed with environment health and the additional conditions agreed the people who made the representations.

Reasons for the decision

The licencing committee have listened carefully and considered all written and oral representations that have been made. They were satisfied that with all of the additional conditions that the licencing objectives would not be undermined. The Committee welcomed the Applicants offer to withdraw the application in relation to the outside tables.

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 8.00 pm