

**Minutes of a meeting of the
Licensing and Control Sub-Committee B
Worthing Borough Council**

Remote via Zoom

11 July 2022

Councillor Sally Smith (Chair)

Councillor Lionel Harman

Councillor Richard Mulholland

LCCB/1/22-23 Declarations of Interest / Substitute Members

None.

LCCB/2/22-23 Public Question Time

There were no questions from members of the public.

**LCCB/3/22-23 Licensing Act 2003 – Application for a new Premises Licence
at Orchid House, 14 West Avenue, Worthing. BN11 5LU**

Before the Sub-Committee was a report by the Director for Communities, which has been 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 Licensing Officer outlined the application, made on behalf of Colibri (UK) Ltd, before members. Members were advised that since publication of the papers the applicant had provided some photos of the interior and exterior of the premises and these were shared with the committee. The Officer clarified that the Police had withdrawn their objection given that the applicant had agreed to additional conditions suggested by the Police. He also clarified that 1 of the 22 representations objecting to the application had also been withdrawn.

The applicant confirmed that the Licensing Officer had provided an accurate outline of the application.

Questions from Members for the presenting Officer

A Member asked if the property in question had submitted any previous licensing applications. The officer stated that, to his knowledge, there had been none.

Representation from Resident A

The Resident made a representation which is summarised as follows:

- Noise implications.
- Public nuisance implications.
- The area around the premises was 100% residential.
- The absence of any current ambient noise in the area.
- The amount of covers possible at the bar/restaurant could amount to having a party in the neighbour's garden every day.
- The intercom at the entrance to the property could be heard by neighbours.
- Intrusive smells of cooking.
- Intrusive smell of cigarette smoke.

Representation from Resident B

The Resident made a representation which is summarised as follows:

- The applicant had misjudged the objection levels from neighbours.
- The properties near the applicant's property included a Quaker Meeting House, a Dementia Care Home and a block of flats with the majority of residents being elderly.
- The objector's views that a bar/restaurant was out of keeping with the character of the area.
- Little or no current ambient noise in the area.
- The potential for the premises to hold events in the future.
- The operating hours requested were unreasonable.
- The possibility that the premises could have a smoking area inside to avoid smokers in the garden or a smoking area outside well away from surrounding properties.
- The possibility that the license application is solely to improve the resale value of the property.

Representation from Resident C

The Resident made a representation which is summarised as follows:

The Quaker House had chosen this area because of its quietness. Other groups hire the Quaker house in the daytime and evening such as, Buddhist groups, healing groups, counselling groups and art groups which also require quiet.

Representation from Resident D

- The letters of support were not from members of the nearby community who would be affected by this licence.
- Customer demand was irrelevant to whether a licence should be granted.
- The fact that the venue was being promoted as a 'high end' hospitality facility was not a guarantee that it would not generate a high noise level.
- Concern that 'pre booking' could mean, for example, 10 minutes before the table was required via the intercom.
- A recent press release stating the facility could become a private members club.
- Noise from cars waiting for manual gates to be operated with their engines idling.
- Noise from refuse disposal at late hours.

Questions from Members to those who made representations

A member asked how the speakers heard of the proposal of a private members Club and noted this was not mentioned anywhere in the committee papers.

A speaker replied that this had been learnt of from a recent press release by the applicant.

Questions from the applicant to those who made representations

There were none.

Representation from the applicant

The applicant made a representation which is summarised as follows:

- This application was for a premises not akin to a pub.
- The restaurant/bar would only allow admissions on a pre booked basis, hours or days before the booking was required.
- Patrons would always be required to be seated whilst consuming beverages.
- A wide range of soft drinks were to be offered along with cocktails, wine and continental bottled beer or cider. There were to be no draught beers or ciders available.
- Off sales would be restricted to on site customers only.
- The applicant had a Noise Management Plan in place which would work to the benefit of the licensee and the neighbours.
- The applicant had a Smoking Policy in place which allowed 4 smokers only at any one time to be in the designated smoking area at the end of the parking area until 9 pm.
- Although there were no specific restrictions on numbers allowed in the premises, in reality it was comfortable for 30 patrons outside, 22 inside (at a later date this would be 28) and there were 6 seats in the bar area.
- Orchid House was intended to be a sophisticated continental style cafe and a quiet place to enjoy a cocktail and enjoy excellent homemade cuisine.
- There was to be no use of the garden after 9pm and the applicant's intention was that this would be a predominantly daytime establishment.
- The applicant had accepted entirely all changes suggested within the mediation by the Police.
- Mediation had been offered to objectors in the form of an evening meeting at the premises to which 6 people came. The applicant thought this was a positive experience and one objector has since withdrawn their representation. As a result of this meeting the applicant had suggested 3 potential offers of mediation, which would, if the license were ever passed on, be transferred. These were -
- Deliveries or dispatches would not be allowed outside the hours of 8am - 6pm, Monday - Saturday. They were to be by prior arrangement and would be in light vehicles only, which must park outside 14 Park Avenue and not on the main road.
- The applicant would refrain from taking refuse to the outside bins after 9 pm.
- There would be no bookings taken for tables after 9 pm. The applicant fully expects to be closed around 11 pm most evenings.

Questions from Members to the applicant

A member asked 3 questions -

- With regards to the location and the fact that it was currently 100% residential why did the applicant feel this is an appropriate place to open a bar/restaurant?

The applicant answered -

The premises had been owned by the applicant's family for 20 years and thus they had a very in depth local knowledge. They were very aware of the surrounding areas and believed that their target clientele would not cause the issues against the licensing objectives that the objectors were concerned about.

- How would the applicant enforce the rule that only 4 patrons are smoking in the designated smoking area at any one time?

The applicant answered -

This was not intended to be a crowded premises and the applicant felt that they would quickly build a regular clientele. In consequence they would be aware of who smoked and would encourage no smoking at all. For those who did want to smoke they would be asked to let the staff know so that they could be shown to the designated smoking area.

- Was it the opinion of the applicant that the patrons her 'high end' cuisine will attract are less likely to create less noise than others?

The applicant answered -

Although the applicant intends to deliver 'high end' food, it would also be good value for money and of a better quality than any other eating establishments available in the area. Whilst the client accepts that there were exceptions to everything and older people could be noisy and younger people could be quiet, they do believe that everyone was quieter whilst eating and seated.

The applicant asked for the committee to note that with regards to the newspaper article that suggested the venue would be a members club, this was published without the applicants knowledge and they did not have any intention of operating as a private members club.

Questions from the residents to the applicant

Residents asked the applicant questions including -

- Had evidence been seen that all other relevant authorities had received the premises application on the same day that the application was given to the Licensing authorities?

The Officer confirmed that an electronic copy of the application had been sent to all relevant authorities on the same day that he had received it from the applicant.

- What was the target opening date?

The target opening time was late August/early September.

- Now that the applicant was aware of the level of local opposition did they have anything to say to them?

There were a limited number of properties that were at risk of being affected by any noise pollution. The applicant had been working throughout the process with Environmental Health to ensure they reached any standards set by them.

- What experience did the applicant have of running a bar/restaurant?

The applicant had been a chef, had previously owned a successful restaurant abroad and had worked in many bars and restaurants in the past.

- How would the applicant control the amount of alcohol that patrons drink?

The applicant was aware that it is a fundamental rule of licensing that people who are obviously under the influence of alcohol are not served more alcohol and could be asked to leave if they are deemed to be intoxicated. As all clientele would be seated before they are served, the staff would have a chance to judge if someone was intoxicated before they were served alcohol.

- Could the applicant provide more detail of the Noise Management plan?

The plan dealt comprehensively with noise from people coming and going on the premises. The applicant has had decibel measurement guidance in regards to music levels. The applicants would be on the premises at all times and so would be in a position to monitor and control noise levels.

- How would patrons know if there is a car parking space available on the premises?

Patrons would be asked if they required parking at the time of their booking. It was expected that they would call the premises when nearby and staff would be on hand to let them on to the premises to park as they arrived.

- If there were patrons in the garden at 9pm when they are required to move inside, what would happen to them if there were no available inside seating?

In that situation patrons would be asked to leave the premises quietly.

- Was it the applicant's intention to serve alcohol without food?

On occasions yes.

- Was the applicant planning to take bookings from groups so increasing the risk of noise?

The reality is, whether it is a group of 2 or a larger group they will fall under the same Noise Management policy. If they were making too much noise they would be asked to reduce the volume or leave.

Summing up of the applicant

The applicant felt this is an application that should be granted a licence so that it fell under the requirements of the Licensing Act which would enable nearby residents to know that they must adhere to the licensing rules and support the 4 licensing objectives.

Summing up by the residents

Residents commented that just because an establishment only allowed seated consumption of alcohol doesn't mean it wasn't a pub. The application site was in a 100% residential area, with a place of worship close by and which was also home to many vulnerable people. The residents urged the Committee to reject the application and impressed upon them that, if they saw fit to grant the licence, they also applied very strict conditions to that licence designed to protect the neighbours.

The meeting adjourned to go into closed session at 7.50pm

Resolved:

That the premises licence should be granted with the conditions agreed with Sussex Police and with the extra conditions offered by the Applicant on the night namely:

- No deliveries without prior agreement and parking must be outside the property between 08.00 hours and 18.00 hours. Monday – Saturday only.
- No waste to be put in the bins outside after 21.00 hours
- No bookings after 21.00 hours

They also wished to add a condition that:

- There is no smoking alongside the boundary with the nearest houses.

The reason for the decision is:

The sub-committee listened carefully to the residents and sympathised with their position. There had already been a decision to allow a business to be run at this property. They felt that actually the grant of a premises licence afforded the residents more protection from public nuisance as the business would have to operate within the conditions of a licence. They believed that the implementation of a non-smoking area as a condition addressed the residents' concerns over smoking in the garden near to properties.

They considered that the conditions proposed and agreed were proportionate and appropriate and that with these the licensing objectives would not be undermined.

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

Chair