

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

Remote Via Zoom

10 August 2022

Councillor Sally Smith (Chair)

*Councillor Lionel Harman

Councillor Dawn Smith

*Absent

LCSC/7/22-23 Declarations of Interest / Substitute Members

Councillor Dawn Smith declared that, in relation to the Factory Live application, she attended the South Broadwater Residents Association, but has not been present for any discussions about Factory Live and always leaves the meeting before the licensing section of the meeting. She declared she is not predetermined with regards to this application.

Councillor Roy Barraclough substituted for Councillor Lionel Harman

LCSC/8/22-23 Public Question Time

There were no public questions.

LCSC/9/22-23 Application for a new Premises Licence

**Licensing Act 2003 – Application for a new premises licence at Tops Pizza, 14
South Farm Road, Worthing, BN14 7AA**

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 outlined the application

The Licensing Officer outlined the application, made on behalf of Tops Pizza Ltd, before members. The application sought to extend opening hours from 23.00 hrs to 03.00 hrs. No alcohol licence was sought. Members were advised that the application had been the subject of formal representation by two responsible authorities, the Police, the A&W Environmental Health Protection Team and there had been no representations from any members of the public. The Officer clarified that the Police had withdrawn their representation given that the applicant had agreed to additional conditions suggested by the Police. He advised that there had been no mediation between the A&W Environmental Health Protection Team and the applicant.

The Officer asked the applicant's agent if he was satisfied that an accurate outline of the application had been given to which the agent replied he was.

Questions from Members for the presenting Officer

A member inquired if vehicles used for delivering takeaway orders would also be used at the premises until 03.00 hrs and asked for confirmation that customers would not be allowed to eat on the premises during those extra opening hours. The Officer confirmed that no eating on the premises would be allowed during these hours and that takeaway vehicles would be used from the premises until closing time.

Representation from Environmental Health Protection Team

The Officer delivered his representation explaining that the reasons for objection were that no other takeaway restaurants were open until that time, there were numerous residential dwellings at first floor level in the vicinity. There were concerns that any noise, including the restaurant kitchen extraction system, would be very audible at the hours applied for.

Questions from Members for the Environmental Health Protection Team

None

Questions from Applicant for the Environmental Health Protection Team

The applicant's agent queried whether the application would be more agreeable to the Environmental Health Protection Team if the extended hours requested were reduced to Friday and Saturday nights only. The Officer replied that the opening hours were considered too late by the Environmental Health Protection Team for any night in that location.

Representation from the applicant

The applicant's agent had nothing further to add.

Summing up by the Environmental Health Protection Team

The Officer acknowledged the applicants' verbal submission to decrease the days the extended hours were requested for but stated that the Environmental Health Protection Team's objection remained.

Summing up by the Presenting Officer

None

Summing up by the applicant

None

The meeting adjourned to go into closed session at 6.54pm

Resolved:

The Sub-Committee considered all the written representations and the oral representations from the representatives of the applicant and the Environmental Protection Team. It resolved that the application should be refused.

The reason for the decision is:

The Sub-Committee considered: The representations made by the Responsible Authority. The mediation during which the applicant had agreed to include the further licence conditions suggested by Sussex Police being placed on the licence. The remaining relevant representation from the A&W Environmental Protection Team which had not been withdrawn. The Sub-Committee also gave regard to human rights legislation and the rules of natural justice. In discharging its functions the Sub-Committee did so with a view to promoting the Licensing objectives. The relevant objectives in this case being the prevention of crime & disorder and the prevention of public nuisance. The Licensing Sub-Committee took particular account from the representations from the Environmental Protection Officer and refused this application as they were of the opinion it would undermine the licensing objective the prevention of public nuisance. The application was for the sale of late night refreshment from 23:00hours until 03:00hours (of the following morning) Monday to Sunday. The premises is in a mixed commercial residential area and although there are other late night takeaways operating in neighbouring streets there are no others operating in South Farm Road that are open until 03:00hours. There are a significant number of residential properties in South Farm Road including a block of flats opposite the premises. As such, the background noise in this area will be low and therefore any noise produced by customers, the kitchen and the external kitchen extraction system is likely to be audible within neighbouring properties. In addition, that noise would be exacerbated with drivers attending the premises to collect and thereafter deliver food to customers. The Applicant made limited representations at the hearing and the Operating Schedule did not sufficiently address the concerns of the Licensing Sub-Committee. The Licensing Sub-Committee had particular regard to paragraphs 4.24 to 4.27 and 6.4 of the Council's Licensing Policy. 7. Additional Observations by Members: The applicant and those that have made representation in connection with this application are reminded that they may appeal against this decision within 21 days of receiving this notice by giving notice to the Magistrates Court. 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 the act.

LCSC/10/22-23 Application for a variation to a Premises Licence

**Licensing Act 2003 – Application for a Variation to a Premises Licence
at The Factory Live, Unit 9a, Ivy Arch Road, Worthing, BN14 8BX**

Presenting Officer outlined the application

The Licensing Officer outlined the application, made on behalf of The Factory Live, before members. The application sought to extend opening hours from 23.00 hrs to 03.00 hrs on a Friday and Saturday night. He clarified that the applicant had stated his intention was not to open until 03.00 hrs every Friday and Saturday night, but to hold occasional

club nights that had these hours. Members were advised that the application had been the subject of formal representation by two responsible authorities, the Police, the A&W Environmental Health Protection Team and 4 members of the public. He advised that there had been no mediation between the Police and A&W Environmental Health Protection Team and the applicant.

The Officer asked the applicant's representative if she was satisfied that an accurate outline of the application had been given to which the representative replied she was.

Questions from Members for the presenting Officer

Members asked the Officer if The Factory Live had used TEN's in the past for these occasional club nights with these late hours which the Officer confirmed was the case. Members asked the Officer if, in theory, the licence was granted the applicant could open on every Friday and Saturday to these late hours and the Officer confirmed that this was the case.

Representation from the Police

The Police Officer delivered his representation explaining that their objection was to the off-sales element of the application, the main concern being the risk that customers would leave the premises with alcohol which could lead to antisocial behaviour. He clarified that he had had no response from the applicant to requests for further information.

Questions from Members for the Police Officer

None.

Questions from the applicant for the Police Officer

None.

Representation from Environmental Health Protection Team

The Officer delivered his representation explaining that the reasons for objection were that there had been no information provided on how the noise levels would be measured with the new hours in mind. He also clarified that noise from customers drinking and chatting outside at the late hours was a concern.

Questions from Members for the Environmental Health Protection Team

Members asked what conditions could be imposed to avoid noise disturbance. The Officer clarified that there is equipment that can be used to lessen base noise such as compressors.

Questions from Applicant for the Environmental Health Protection Team

None.

Representation from a resident

A resident delivered a representation objecting to the extended hours being granted. The concerns covered within the representation included increased noise, litter and risk of antisocial behaviour.

Questions from Members for the resident

Members inquired whether the resident had made formal complaints in the past regarding noise from the venue. The resident clarified that they had not.

Questions from Applicant for the resident

None.

Representation from the Applicant

The Applicants representative delivered the representation explaining that due to the Applicant having suffered with serious ill health in the last few weeks the desired mediation had been unable to take place. She confirmed for the committee that the Applicant had no plans to increase the amount of events that needed the longer opening hours and the application was for convenience and cost effectiveness, avoiding having to complete and pay for a lengthy TEN's application for every event. She clarified that in two and a half years and a hundred events there had only been one incident that involved the police and this was not an incident on the later events. The representative also clarified that the off-sales were for patrons only.

Questions from Members for the applicant

Members stated that they felt mediation was needed for this application but in light of the applicants ill health it was completely understandable that it hadn't taken place. Members had questions for the applicant's representative concerning any cut off time for new customers entering the venue and the capacity of the outside terrace. She explained that the venue, including the outside terrace was run on ticket only admittance and that there was a last entry time for the events but as this varied she could not give a specific time. She estimated that the terrace could hold approximately 50 people and clarified that customers used the terrace now and there have been no complaints of noise disturbance.

Questions from Representors for the applicant

Officers queried what interior noise control the venue had at present and the applicant's representative explained that a compressor is fitted in the venue and they had always shown to be complying with the Sound Survey.

The resident requested assurance that people would not be able to enter the venue on their way home from drinking in town and continue drinking until the closing time of 03.00 hrs. The applicant's representative confirmed that this would not happen and reiterated the ticket only admittance policy and cut off entry times.

Summing up by the applicant

The applicant's representative summed up reiterating many of the points within her representation and thanking the attendees for their comments which she would take away and try to address any concerns.

Summing up by the Officers

None

Summing up by the Representors

None

The meeting adjourned to go into closed session at 8.00pm

Resolved:

That the hearing should be adjourned in accordance with Regulation 12(b) of The Licensing Act 2003 (Hearings) Regulations 2005

The reason for the decision is:

The Licensing Sub-Committee felt it was necessary for this matter to be adjourned to allow the Applicant to have the opportunity to engage in mediation with all those who had made representations prior to the Licensing Sub-Committee making its decision. It was accepted that due to personal circumstances it had not been possible for the Applicant to undertake mediation prior to this hearing.

The meeting ended at 8:15pm

Chair