

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

The Gordon Room, Worthing Town Hall

24 August 2023, 7.00 pm

Councillor Ferdousi Henna Chowdhury (Chair)

Councillor Helen Abrahams

Councillor Richard Nowak

LCSC/17/23-24 Declarations of Interest / Substitute Members

There were no substitute members.

There were no declarations of interest.

LCSC/18/23-24 Public Question Time

There were no questions from members of the public.

LCSC/19/23-24 Members questions

There were no questions from members.

LCSC/20/23-24 Licensing Act 2003 – Application for a variation to a Premises Licence

Before the Sub-Committee was a report by the Director for Sustainability and Resources, which has been circulated to all Members, a copy of which is attached to the signed copy of these minutes as item 4. Members were requested to consider and determine an application for a Variation to a Premises Licence at Angels Bar & Nightclub, 10 High Street, Worthing, BN11 1NU.

Presenting Officer outlined the application

The Licensing Officer outlined the application explaining that the hours sought had now been modified by mediation with Sussex Police but the application was still applying to remove condition 21 & 24 which both related to under 18's admittance to the premises. The new hours agreed with the Police were to be closing time of 3.30am and last orders at 3.10am, 7 days a week. In addition mediation had taken place with the Environmental Protection Team and a condition had been agreed that no variation would take place until a noise assessment had been undertaken and a scheme approved and thereafter implemented.

The Officer understood that there had been contact between registered objectors and the applicant but he was unaware of any success.

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

Questions from Members for the presenting Officer

There were none.

Representation from Sussex Police

The Sussex Police representative explained that the new hours agreed with the applicant during mediation brought the premises into line with the opening hours of 3 other similar premises in the area. In addition, a new set of conditions had been agreed to replace the existing conditions including Club Scan, body worn cameras for SAA door staff and specific conditions allowing for events for 16 and 17 year olds at the venue. Sussex Police agreed in advance that they would leave the setting of noise prevention specific conditions to the Council's Environmental Protection and Licensing Officers.

Questions from Members to Sussex Police

Members enquired whether the new conditions would still be applied to the licence should the variation applied for today be denied by the Committee.

The Sussex Police representative stated he thought this unlikely but deferred to the Licensing Officers who then confirmed that this would not be possible.

Questions from applicant to Sussex Police

There were none.

Representation from Environmental Protection Officer

The Environmental Protection Officer clarified the details of the Noise Abatement Notice that had been served to the licence holder and the conditions that had been mediated with them and the conditions they intended to add regarding noise issues.

Questions from Members to Environmental Protection Officer

Members enquired if the changes made by the licence holder to date had been effective at all. The Officer confirmed that they had not.

Questions from applicant to Environmental Protection Officer

The applicant asked the Officer for clarification regarding some DB measurements taken inside a nearby property. The Officer explained that the measurement had been 27 which equated to approx. 40 DB outside. The limit on the licence condition for the inside of the premises was 50 DB and the Officer stated that Environmental Protection were of the opinion that this condition was inapt.

Representation from resident 1

The Resident explained that he was objecting to the application on the grounds of public safety and public nuisance. He described how his dwelling reverberated with the sound caused by music from the premises during its opening hours on Thursday's through to Saturday's (early Sunday's). He also clarified that anti-social behaviour in the area is greater when the club is open and he felt that the premises was not fulfilling its licensing agreements.

Questions from Members to resident 1

There were none.

Questions from applicant to resident 1

The applicant enquired if the resident would consider it suitable if the variation be granted on the proviso that all the new conditions be met. The resident said that providing the new conditions meant the cessation of the reverberations through his dwelling when the premises was open, he would consider this suitable.

Representation from Resident 2

The resident explained how she had lived in the adjacent block of flats for approx. 6 years and the noise intrusion was currently the worst since she had lived there. Despite her bedroom being furthest away from the party wall and listening to white noise through earplugs she was still able to hear the lyrics of the songs and the DJ talking. She explained that she was now in the habit of going to bed at 8pm in the hope she would be sleeping deeply enough to remain un-awakened by the noise. This measure had been largely unsuccessful and lack of sleep was now affecting her performance at work. In addition the recycling bins at the front of the club were emptied at 5 - 5.30 am which also contributed to the disturbance. She had experienced members of the public vomiting and urinating outside out the block's front doors and she had been verbally assaulted by people who she had assumed were customers of the premises.

Questions from Members to resident 2

There were none.

Questions from applicant to resident 2

The licence holder apologised to the resident and asked if she would consider it suitable if the variation be granted on the proviso that all the new conditions be met.

The resident clarified that she would be wary as certain assurances had been given to her by the licence holder in the past that hadn't been acted on.

Representation from Resident 3

The resident explained that he also lived adjacent to the premises and had purchased the property realising it was next door to a nightclub. That being, he had been accepting of the fact that there would be a certain amount of disturbance. He explained that when the premises had been Bar Ten, before the current licence holder owned it, he had never found the level of noise emanating from it a problem. However since it had been with the

current licence holder he had suffered badly with disturbed sleep due to the much elevated level of noise. He stated he had raised the issue with the premises licence holder many times but as yet the situation remained unchanged. He said he felt that the licence holder seemed reluctant to spend the money needed to solve the problem.

Questions from Members to resident 3

There were none.

Questions from applicant to resident 3

There were none.

Representation from resident 4

The resident explained how she had moved to the nearby residential, conservation area to be near family before the premises had opened under the current licence holder. She described experiences akin to the previous speakers and explained how she had contacted the Council's Environmental Health department several times in an attempt to address the situation but to no avail. She clarified that she suffered from classic symptoms of sleep deprivation because of the noise disturbance caused by the premises and confirmed that despite a Noise Abatement notice being served on the licence holder she had experienced no reduction in the noise. She stated that she was of the opinion that the building was not fit for purpose, having previously been a church, and needed complete soundproofing. She also considered that the licence holder seemed reluctant to spend the money needed to solve the problem.

Questions from Members to resident 4

There were none.

Questions from applicant to resident 4

There were none.

Representation from resident 5

The resident explained that she had previously resided in the middle of Brighton in properties often next to or backing onto nightclubs but had never experienced the level of noise she was now. She clarified that she was keen to support the local economy and keep Worthing's nightlife thriving but felt this issue should not be arising as the simple option was just to turn the volume down. She explained to the committee that by Sunday each week she was totally exhausted with hardly having any sleep since Thursday. She had attempted to sell her property because of the noise disturbance but the buyer she obtained had pulled out of the purchase after visiting the property when the club was open and hearing the noise for themselves. She explained that she had spent £5000 on acoustic glass for her property but the noise still penetrated it. She had also had extra thick underlay in her bedroom to try and tackle some of the reverberations but this had also had very little effect. She was sympathetic that the licence holder had attempted to employ some measures to address the problem but felt they had been completely inadequate.

She also made a representation on behalf of her neighbour who had been unable to attend. The neighbour resided with two young children who had also suffered from the effects of the excessive noise and anti-social behaviour in the area. One of the children had many migraines which had been badly worsened by significant lack of sleep. The neighbour had been disturbed in the early hours of a morning by the premises staff smoking outside, talking and laughing loudly.

Questions from Members to resident 5

There were none.

Questions from applicant to resident 5

There were none.

Representation from the applicant

The licence holder apologised to the residents present for causing the issues they had raised within their representations. He explained some of the internal changes they had made within the premises that may have caused the noise to worsen. He confirmed for the Committee that if they were to grant the variation applied for he understood he would have a legal obligation to make the changes that had been requested. He clarified that he considered the extension of hours was essential to his business to remain competitive with other similar premises in the area and to ensure the business remained solvent, enabling employment of local people. He also elucidated his plans to hold prom nights and comedy nights for under 18's which would necessitate the removal of conditions 21 and 24.

Questions from Members to the applicant

Members had questions for the licence holder regarding the residents' complaints of antisocial behaviour being more prevalent when the premises was open. The Licence holder was sympathetic to the residents but maintained there was no evidence that the instigators of these instances of public nuisance had originated from his premises, there being two other similar clubs nearby and numerous other drinking and take away establishments. He did confirm that he was willing to place additional staff outside his premises to help monitor and stop anti-social behaviour.

Members enquired whether the licence holder would be willing to withdraw his application until such time that the noise nuisance had ceased.

The Licence holder requested an adjournment for 5 minutes to liaise with his family.

The Licence holder expressed his desire to continue with this application as, under the proposed conditions, he would be unable to inaugurate the new opening hours until all the noise mitigation measures had been taken and acceptable noise measurements had been taken at neighbouring dwellings. He explained that he had an acoustic engineer booked to attend his premises the following week to begin the assessment. He also committed to undertake a thorough assessment of the windows of the premises to ensure minimum noise leakage.

Questions from those who made representations to the applicant

The residents requested that the licence holder turn the music volume down until the actual soundproofing had been completed. The Licence holder committed to comply with that request starting immediately. When asked if he possessed a suitable sound recording device of his own he confirmed that he wasn't certain but affirmed he would purchase one if he needed to. He assured the residents that he would begin taking regular sound measurements and share the results with them.

Summing up of those who made representations and of the applicant.

All parties summed up reiterating aspects of their representations.

The meeting adjourned to go into closed session at 8.18 pm

In reaching its decision the Licensing Sub-Committee has 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 Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety.

Resolved: That the application to vary the premises licence shall be granted with the amendments to the application that were resolved during mediation with Sussex Police and the Environmental Protection Team (EPT).

Therefore, the hours will be:

Every day:

- Closing times – 03.30 hours of the following morning
- All licensable activities – 03.10 hours of the following morning

Amended conditions agreed with Sussex Police

Removal of all of the existing conditions in Annex 2 of the current Premises Licence (p27 to p30 of the agenda), to be replaced with conditions detailed at Annex G of the report (p121 to p131 inclusive).

Additional condition agreed with EPT

The addition of the condition detailed in the further representation of EPT dated 18th August 2023, namely:

“Before any variation of operating hours commences, a suitably qualified acoustician shall be employed to carry out a noise assessment of the entertainment noise and produce a report setting out a scheme to achieve the following noise criteria:

- the LAeq of the entertainment noise shall not exceed the representative background noise level LA90 in any neighbouring property, without the entertainment noise, and
- the L10 of the entertainment noise shall not exceed the representative background noise level L90 in any neighbouring property, without the entertainment noise, in any 1/3 octave band between 40Hz and 160Hz.

The proposed scheme shall be submitted to and agreed with the licensing authority before being implemented.

Following approval and completion of the scheme, a test shall be undertaken by a suitably qualified acoustician to demonstrate that the scheme is effective and meets the aforementioned criteria. Should this test show that the criteria have not been met, a further scheme capable of achieving the criteria shall be submitted to and agreed with the Licensing Authority and further tested upon completion.

Thereafter, the final and tested scheme shall be maintained in order to comply with the stated criteria, which will remain conditions of the licence.

For this purpose ‘suitably qualified’ means someone who has met the qualification criteria to be a member of the Institute of Acoustics or the Association of Noise Consultants.”

In addition, at the hearing the Applicant agreed to reduce the volume of the music immediately and to keep the music at a reduced level until works were completed.

The reason for the decision is: The Sub-Committee listened carefully to all representations made both orally and in writing and considered the mediations reached prior to the hearing.

It was noted that the Applicant had met with some of the local residents prior to the hearing. However, the Sub-Committee was concerned to hear the representations from local residents regarding primarily noise and anti-social behaviour. Further, the Sub-Committee was informed that a Noise Abatement Notice had been issued on the 26th July 2023 but since then it was disappointing to note then the EPT had received further complaints regarding excessive noise.

The Sub-Committee carefully considered the mediated conditions. The agreed hours are now significantly reduced and the licensing conditions agreed with Sussex Police mean the conditions have now been updated and are far more robust.

In addition, there is an agreed condition with the EPT stating there will be no variation to the operating hours until firstly a noise assessment is undertaken by a suitably qualified acoustician, that scheme will then be submitted to and approved by the EPT prior to being implemented. Following implementation the scheme will undergo testing by a qualified acoustician, if the detailed criteria have not been met a further scheme has to be implemented and agreed with the EPT.

As such, the Sub-Committee were of the opinion this condition, along with the mediated conditions with Sussex Police and the reduced opening hours were sufficiently robust not to undermine the licensing objectives.

The Applicant is reminded that the Noise Abatement Notice remains in place.

The meeting ended at 8.18 pm

Chair