

**Alcohol and Entertainment Licensing Sub-Committee**

Date and Time: Wednesday 3 October 2018 at 14:30

Venue: Committee Room 1 East Pallant House Chichester District Council East Pallant West  
Sussex PO19 1TY

**Application for a PREMISES LICENCE**

East Walls Hotel  
3 East Row  
Chichester  
West Sussex  
PO19 1PD

**1. RECOMMENDATIONS**

- 1.1 That the Alcohol and Entertainment Licensing Sub-Committee considers and determines an application made by East Walls (Chichester) Limited for a Premises Licence.**
- 1.2 If the determination is to grant a Premises Licence, to give consideration as to whether it is appropriate to attach conditions to ensure that the Licensing Objectives are met.**
- 1.3 The Alcohol and Entertainment Licensing Sub-Committee is to give reasons for its decision.**

**2. REASONS FOR HEARING**

- 2.1 The Premises Licence application submitted by East Walls (Chichester) Limited of 24 Park Road South Havant Hampshire PO9 1HB has been the subject of twenty six (26) relevant representations, the majority of which were from local residents living close to the application site and one from Sussex Police in its role as a Responsible Authority under the Licensing Act 2003 (the 'Act') albeit this has been resolved in principle during the mediation process associated with this application. It is important to emphasise that of the 26 representations 14 were in support of the application and 12 (including Sussex Police) in opposition.

**3. BACKGROUND**

Included in this report are the following attachments:

- 3.1 Copy of the Alcohol and Entertainment Licensing Sub-Committee Protocol and Procedure.

- 3.2 A plan depicting the local area and application site in relation to the representations received by the Licensing Authority. **(Attachment A)**
- 3.3 A copy of the Premises Licence application (13/00349/LAPRE) **(Attachment B)**
- 3.4 Copy of relevant representations and where applicable successful mediation. **(Attachment C)**

**4 SUMMARY OF THE PREMISES LICENCE APPLICATION**

- 4.1 A copy of the application is reproduced in full at Attachment B.
- 4.2 East Walls (Chichester) Limited, the applicant, submitted a valid application on 8 August 2018. As part of the application process statutory public notices were displayed at the premises during the representation period, which ran until 5 September 2018 and a suitable advert was published in the Chichester Post on 17 August 2018.
- 4.3 The nature of the premises is simply described as a “high class boutique hotel” by the applicant. The application was seeking one licensable activity, the ‘supply of alcohol’ for consumption ‘on’ the premises. No forms of regulated entertainment i.e. live or recorded music etc. were applied for. Below is a table illustrating the standard days and timings being applied for the ‘supply of alcohol’ to guests and the general public.

<b>Application seeking</b>	<b>Standard days, timings and non-standard standard timings being applied for</b>
‘Supply of alcohol’ RESIDENTS OF THE HOTEL (for consumption ‘on’ the premises)	<p style="text-align: center;"><b>Everyday</b> <b>00.00 – 00.00</b></p> <p style="text-align: center;"><b>No Non-Standard Timing or Seasonal variations</b></p>
‘Supply of alcohol’ GUESTS OF HOTEL RESIDENTS (for consumption ‘on’ the premises)	<p style="text-align: center;"><b>Monday to Sunday</b> <b>11.00am – 11.00pm</b></p> <p style="text-align: center;"><b>No Non-Standard Timing or Seasonal variations</b></p>

<p>'Supply of alcohol'</p> <p>GENERAL PUBLIC</p> <p>(for consumption 'on' the premises)</p>	<p style="text-align: center;"><b>Monday to Sunday</b> <b>11.00am – 6.00pm</b></p> <p style="text-align: center;"><b>No Non-Standard Timing or Seasonal variations</b></p>
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4.4 The applicant provided additional information in its Operating Schedule as to how it intended to promote all four of the Licensing Objectives as a result of the application (shown at Attachment B). Where appropriate these suggested steps would be translated into conditions if the application is successful and a Licence granted. The applicant's proposals included, amongst other things, such matters as:

- Video surveillance (recorded) covering the bar, main entrance and garden
- Designated escape routes
- An age restriction approach to the retail sale/supply of alcohol

The applicant also offered the following under the Prevention of Public Nuisance licensing objective:

***Hotel residents guests can be served alcohol between the hours of 11.00 am to 23.00 hours Monday to Sunday. General public 11am to 18.00 hours Monday to Sunday***

4.5 Emily Muncey was originally nominated as the proposed Designated Premises Supervisor in the original application. However since compiling this report Emily has contacted this Authority informing us that she has ceased employment at the premises. The applicants, Mr and Mrs Haughey, are now in the process of obtaining their own Personal Licences and it is understood that one of them will subsequently be put forward as the Designated Premises Supervisor. It is important to note therefore that if the application is granted alcohol sales will not be permitted until such time as there is a named Designated Premises Supervisor on the Licence.

## **5 THE PROCESS AND PROMOTION OF LICENSING OBJECTIVES**

5.1 The legislation provides clear focus on the promotion of four licensing objectives which must be addressed when licensing functions are undertaken. The licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance and
- The protection of children from harm

5.2 In carrying out its licensing functions, the Licensing Authority must also have regard to its current Statement of Licensing Policy 2016 – 2021 and Guidance published by the Home Office (April 2018) along with the relevant matters raised in the representation(s).

## 6 RELEVANT REPRESENTATION(S)

6.1 A representation is “relevant” if it relates to the likely effect of the grant of the Licence on the promotion of at least one or more of the licensing objectives. The 26 representations received in respect of this application and where applicable, the outcome of successful mediation, are reproduced in full at Attachment C.

The key points extracted from the representations in opposition to the application are summarised below:

*“.....our main concerns about a licence that extends until 11pm are noise nuisance and light pollution” (the prevention of public nuisance)*

*“.....if the hotel holds larger receptions, it is inevitable that the noise from a large party, particularly using the hotel garden, will disrupt the residents of East Walls Close during the day or night-time.” (The prevention of public nuisance)*

*“There is a risk that residents of East Walls Close will be deprived of the ability to enjoy their homes and gardens without disruption.....” (The prevention of public nuisance)*

*“There is the issue of potential disorder, as a result of people who may have too much to drink and can easily access the decking right in front of our flats. And some residents have to get early nights”. (The prevention of public nuisance)*

*“.....with today’s legislation regarding smoking indoors pushing everyone outside to smoke, vape and drink it would impact heavily on the quality of life in a totally residential area....” (The prevention of public nuisance)*

A number of objectors suggested the following conditions be added if the Sub-Committee are minded to grant the Licence.

- All doors and windows in public rooms must be kept closed after 21.00hrs to contain any noise inside the hotel.
- Signs should be displayed in the hotel reminding customers that the hotel is in a quiet residential area and that should be kept to a minimum.
- Any outside lighting should be reduced to a minimum after 21.00hrs to ensure no light pollution to the residents of East Walls Close.

6.2 The 14 representations in support of the application offered the following comments.

*“.....the hotel has been very tastefully refurbished and I certainly can’t see it catering for any, so called, undesirables”*

*“.....as I live right next door to the hotel in East Row and have seen the care that has been taken over its renovation, including sound-proofing which has surpassed building regulation requirements to ensure that no residents of East Row will be disturbed. I would like to express my full support and have no objection to the granting of a licence to sell alcohol for these premises.”*

*“.....we are close neighbours of the hotel which we know will be a great asset to the area and we are sure it will be managed responsibly.”*

*"I would like to support the application for an alcohol licence at East Walls Hotel, as I would like to be able to go and have a drink after work and sit in their garden as I don't have one, my flat already overlooks the hotel garden. I can't envisage any nuisance with noise as I know the owners want the guests to enjoy the peacefulness which exist in this area."*

*"I have been residing at the above hotel while on an assignment at West Sussex County Council. Over the past couple of months, I have enjoyed staying in the centre of the city without feeling like I am in one. The hotel is beautifully boutique, quiet and tranquil and a home away from home. The only thing it lacks is the ability for its high end clientele (and I'm not being biased) to enjoy a glass of wine or two on the premises. The owners are meticulous about their brand and on the premises 24/7 so the risk of noise or rowdy behaviour is minimal. As a potential long term guest for the next year - I think it would be a travesty to deny a family run hotel the opportunity to enhance the experience of their guests while enjoying the city. For me, it is not always practical to pop out for a drink. Indeed, these days it is unreasonable to expect a guest to do so. I would be grateful if you could consider this please from a responsible guest."*

6.2 It is considered appropriate to highlight that one Responsible Authority under the Licensing Act 2003 submitted a representation which remains outstanding in opposition to this application. As previously stated Sussex Police was that Responsible Authority and did originally object although a number of conditions have been agreed in principle with the applicant to be added to the Premises Licence, if granted. Below are the suggested conditions. A full copy of the Sussex Police representation is reproduced at Attachment C.

- The premises will operate an age verification policy set at a minimum of 25 years, whereby any person attempting to buy alcohol who appears to be under the specified age will be asked for photographic ID to prove their age. Signage advertising the "Challenge" policy will be displayed in prominent locations in the premises and shall include the point of sale and the area where the alcohol is displayed, as a minimum. The recommended forms of ID that will be accepted are passports, driving licences with a photograph or Citizen Card or validated proof of age cards bearing the "PASS" mark hologram.*
- All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs. Induction training must be completed prior to engaging in any sale of alcohol. Refresher training shall be conducted thereafter at intervals of no more than eight weeks. All restricted sales training undertaken by staff members shall be fully documented and signed by the employee and the DPS. All training records shall be made immediately available upon request to the Local Authority Licensing Officers and Sussex Police Officers or Licensing staff.*
- The premises shall at all times maintain and operate a sales refusals log and an incident log will be kept to record all refusals and incidents of crime or disorder. These shall be reviewed and signed by the Designated Premises Supervisor at intervals of no more than eight weeks. Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.*

*These records shall be kept for a minimum of twenty four months, and made immediately available upon request to the Local Authority Licensing Officers and Sussex Police Officers or Licensing staff.*

- *Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.*
  - *The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.*
  - *CCTV footage will be stored for a minimum of 31 days.*
  - *The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.*
  - *The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.*
  - *Subject to Data Protection guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the police without difficulty or delay and without charge to Sussex Police.*
  - *Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.*

6.5 All those that made relevant representation(s) either in support or opposition to the application, including Sussex Police, were sent the Notice of Hearing, along with the applicant, inviting them to attend or nominate another person to address the Sub-Committee on their behalf.

## **7 CONSIDERATION**

7.1 In reaching its determination the Sub-Committee must take into consideration the four Licensing Objectives, the Council's Statement of Licensing Policy, the current Home Office Guidance and written and/or oral evidence during the hearing

7.2 It is very important to note that these are the only matters to be addressed by the Licensing Authority when considering this application. The Licensing Objectives are the only grounds on which representations can be made, and the only grounds on which the Licensing Authority will be able to refuse an application or impose appropriate conditions in addition to mandatory conditions and those proposed by the applicant in their Operating Schedule.

7.3 Human Rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol and articles 6 and 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property (holding a licence would be considered a possession). Article 8 relates to the right to respect for private and family life, home and correspondence. Article 6 relates to the right to a fair trial. These are however qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done: -

- Has its basis in law;
- Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim,
- Is proportionate to the aims being pursued; and,
- Is related to the prevention of crime or, the protection of public order or health or the protection of the rights and freedoms of others.

7.4 The Sub-Committee must consider each application on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.

7.5 All applications before the Sub-Committee must be considered against the backdrop of anti-discriminatory legislation, such as the Race Relations Act 1976 as amended 2000, and the Sex Discrimination Act 1975, and also in accordance with the Council's stated policy on Equal Opportunities.

7.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from Persons and the Responsible Authorities.

7.7 The Sub-Committee is required to give reasons for its decision.

## **8. OPTIONS OPEN TO THE SUB-COMMITTEE**

8.1 When considering this application the following options are available to the Sub-Committee:

- a. To grant the Premises Licence, as requested.
- b. To grant the Premises Licence, as requested, with additional conditions appropriate to the promotion of the specific Licensing Objectives on which relevant representations have been received.
- c. Reject the whole or part of the Premises Licence application.

8.2 The Sub-Committee may also:

- d. Grant the Premises Licence but exclude certain licensable activities from the licence.
- e. Grant different conditions to different parts of the premises or to different Licensable Activities.

## **9 BACKGROUND PAPERS**

Licensing Act 2003

Home Office Guidance issued under section 182 of the Licensing Act 2003 (April 2018)

## 10 ATTACHMENTS

**Attachment A:** Plan of the local area and application site

**Attachment B:** A copy of the Premises Licence application (13/00349/LAPRE)

**Attachment C:** Copy of original relevant representations and where applicable mediation

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