

Licensing Authority, Chichester District Council, East Pallant House,
1 East Pallant, Chichester, West Sussex, PO19 1TY

Alcohol and Entertainment Licensing Sub-Committee

Date & Time: Monday 24th July 2023 at 09:30

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

**Application for a PREMISES LICENCE
(Application Number – 23/01008/LAPRE)**

The Secret Boardroom
2 Petersfield Road
Midhurst
West Sussex
GU29 9JH

1. RECOMMENDATIONS

- 1.1 That the Sub-Committee consider and determine an application made by The Secret Boardroom Ltd 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 the statutory licensing objectives are promoted.**
- 1.3 The Sub-Committee is to give reasons for its decision.**

2. REASONS FOR HEARING

- 2.1 The Premises Licence application submitted by The Secret Boardroom Ltd of The Secret Boardroom, 2 Petersfield Road, Midhurst, West Sussex, GU29 9JH (Company Number 14798467) has been the subject of four relevant representations, all in opposition to the application. Of the representations received, two are from members of the public with the remaining received from Sussex Police and the Environmental Protection Team in their statutory roles as Responsible Authorities under the Licensing Act 2003.

3. BACKGROUND

Included in this report are the following attachments:

- 3.1 Copy of the Alcohol and Entertainment Licensing Sub-Committee – Protocol.
- 3.2 Plans depicting the application site and local area in relation to the representations received by the Licensing Authority (**Attachment A**).

- 3.3 Copy of the complete Premises Licence application (**Attachment B**).
- 3.4 Copy of all relevant representations (**Attachment C**).
- 3.5 Copy of successful mediation between the applicant and Sussex Police along with unsuccessful mediation with all remaining representors (**Attachment D**).

4 SUMMARY OF THE PREMISES LICENCE APPLICATION

- 4.1 A copy of the complete application is reproduced in full at Attachment B.
- 4.2 The Secret Boardroom Ltd submitted a valid application on 30th May 2023. As part of the application process, statutory public notices were displayed by the applicant at the application site during the representation period; this ran between 30th May 2023 and 27th June 2023 inclusive. In addition, a copy of the statutory public notice was published in the Chichester Observer Series newspapers on 8th June 2023.
- 4.3 The following is an extract taken from the application form in which the applicant provides a general description of the site and intended use:

‘Premises will serve alcohol, food, coffee and outside door seating also. The premises is located on the high street and will also be providing private hires, such as hen do’s meetings, birthdays. Live band will be on the weekends. The premises will have security cameras in at all times, and owner will be overseeing premises’.

- 4.4 The application seeks a permanent Premises Licence, with a variety of licensable activities being sought, this includes regulated entertainment in the form of both live and recorded music, along with the provision of late night refreshment and the retail sale of alcohol for consumption both on and off of the premises.
- 4.5 The table below specifies the standard days and times for each of the forms of licensable activity being sought, along with the associated opening hours:

Licensable Activity	Hours proposed by the applicant within the application	Location
Live Music	Monday to Friday - 19:00 - 21:00 Saturday and Sunday – 19:00 – 22:00	Indoors only
Recorded Music	Every Day – 11:00 - 23:00	Indoors only
Late Night Refreshment	Every Day - 23:00 – 00:30	Indoors Only

Supply of Alcohol (for consumption on the premises only)	Every Day - 11:00 - 00:30	Indoors Only
Hours premises are open to the public	Every Day 11:00 – 01:00	N/A

4.6 Due to statutory deregulation that has come into effect since the Licensing Act 2003 was introduced in 2005, it is important to be aware that with respect specifically to live music and recorded music, these activities are not actually licensable if all of the following criteria is met:

- The live or recorded music takes place between 08:00 and 23:00;
- It takes place at an alcohol on-licensed premises; and
- The audience is no more than 500 people.

Given the capacity of the premises is likely to be under 500 and the fact that the proposed hours for both live and recorded are between 11:00 and 23:00, then if a Premises Licence were to be granted which authorised the retail sale of alcohol for consumption on the premises for these hours, then neither the live or recorded music would in fact be licensable.

4.7 The applicant has provided information within Box M of the application form stating the steps that they intend to take to promote all four of the licensing objectives. With respect to the representation submitted by Sussex Police, the applicant has agreed in principle to a number of additional conditions requested by Sussex Police and, should it have been possible to proceed to grant a Premises Licence, Sussex Police were prepared to withdraw their representation. The agreement in principle between Sussex Police and the applicant with respect to the additional conditions is shown at Attachment D.

4.8 In view of the retail sale of alcohol being applied for as a licensable activity, The Secret Boardroom Ltd have nominated Ms Shaakilla Mahabir as the proposed Designated Premises Supervisor (DPS). Ms Mahabir holds a current Personal Licence (No. 3815/23/00760/LAPER) granted by this Licensing Authority and there are currently no reported incidents known to this Licensing Authority associated with Ms Mahabir.

5 THE PROCESS AND PROMOTION OF LICENSING OBJECTIVES

5.1 The legislation provides a clear focus on the promotion of four licensing objectives which must be addressed when licensing functions are undertaken. Each objective is of equal importance. 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 2022-2027, statutory guidance published by the Home Office (December 2022) along with relevant matters raised in any representation(s).

6 RELEVANT REPRESENTATION(S)

6.1 A representation is “relevant” if it relates to the likely effect of the grant of a licence on the promotion of at least one or more of the licensing objectives. Representations can be in opposition and/or support of an application. As stated at paragraph 2.1 above, the application attracted four relevant representations, all of which are in opposition. For completeness, a fifth representation was received during the representation period, however this was subsequently withdrawn at the representors request following contact with the applicant. All relevant representations are reproduced in full at Attachment C.

6.2 Whilst the various representations make reference to a number of matters, it is evident that the main areas of concern particularly relate to the likely effect on the promotion of the Public Nuisance, Prevention of Crime and Disorder and Protection of Children from Harm licensing objectives should the application be granted as originally applied.

7 MEDIATION

7.1 Whilst Sussex Police determined to submit a representation in respect of the application, they had discussions with the applicant during the representation period. The applicant subsequently agreed to several additional conditions proposed by Sussex Police and consequently they were in principle prepared to withdraw their representation should it have been possible to grant a Premises Licence at the end of the representation period. The successful meditation is shown in full at Attachment D, however to assist, the agreed conditions relate to the following:

- (i) Provision and maintenance of closed-circuit television system (CCTV);
- (ii) Control of customers whilst smoking or otherwise congregating outside the front of the premises beyond the licensed area;
- (iii) Provision and maintenance of an incident log;
- (iv) Active member of any Pubwatch Scheme or similar group where these operates in the area;
- (v) Provision of Security Industry Authority (SIA) staff when identified by a risk assessment of requested by Sussex Police;
- (vi) Operation of a ‘Challenge 25’ policy at the premises to protect against children buying alcohol including signage at the premises;
- (vii) Training of all individuals who would be involved in selling alcohol; and
- (viii) Requirement for children to be accompanied by a responsible adult at all times along with children not being permitted on the premises after 21:00.

7.2 In response to the various representations, The Secret Boardroom Ltd determined to write to all representors outlining their proposed business model in anticipation that this might reassure the representors such that they may withdraw their representation. The email sent to all representors is shown at Attachment D. Ms Anna McGough was the only respondent to this email and her responses and that of The Secret Boardroom Ltd are also shown at Attachment D. Despite the attempt by

the applicant to reassure representors, none of the remaining representors withdrew their representations.

- 7.3 With respect to the representation from the Environmental Protection Team, it has been recommended that the applicant commission a sound insulation performance test. The intention of the test is to check how much noise would be transmitted to other nearby properties, particularly the domestic accommodation immediately above. The applicant has indicated that they are agreeable to commission such a test, however at the time of writing this report, no such test has been conducted. The discussions had between the two parties with respect to this point are shown at Attachment D.

8 CONSIDERATION

- 8.1 In reaching its determination, the Sub-Committee must take into consideration the promotion of the four statutory licensing objectives, the Council's Statement of Licensing Policy, the current Home Office Guidance along with written and/or oral evidence during the hearing.
- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 All applications before the Sub-Committee must be considered against the backdrop of anti-discriminatory legislation including the Equality Act 2010 and in accordance with the Council's current Equality Strategy.

8.6 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 Responsible Authorities and any other person(s).

8.7 The Sub-Committee are required to give reasons for their decision.

9. OPTIONS OPEN TO THE SUB-COMMITTEE

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

- (a) Grant the Premises Licence as applied for;
- (b) Grant the Premises Licence as applied for along with any additional conditions considered appropriate to promote one or more of the licensing objectives on which relevant representations have been received.
- (c) Grant the Premises Licence but exclude certain licensable activities from the licence or reduce the hours being sought during which the licensable activities may take place; or
- (d) Reject the whole or part of the Premises Licence application.

10 BACKGROUND PAPERS

- Licensing Act 2003 (as amended)
- Home Office Guidance issued under section 182 of the Licensing Act 2003 (December 2022)
- Chichester District Council's Statement of Licensing Policy 2022-2027

11 ATTACHMENTS

Attachment A: Plans depicting the application site and local area in relation to the representations received by the Licensing Authority.

Attachment B: Copy of the complete Premises Licence application.

Attachment C: Copy of all relevant representations.

Attachment D: Copy of all mediation.

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