



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in Committee Room 2 - East Pallant House on Thursday 13 June 2019 at 9.30 am

Members Present: Mr J Elliott, Mr H Potter and Mr A Sutton

Members not present:

In attendance by invitation:

Officers present all items: Mr L Foord (Divisional Manager for Promotion and Events), Mr D Knowles-Ley (Licensing Officer), Mr N Bennett (Divisional Manager for Democratic Services), Mr T Horne (Principal Environmental Health Officer) and Miss S Hurr (Democratic Services Officer)

19 **To elect a Chairman for this Hearing**

It was proposed by Mr Elliott and seconded by Mr Sutton that Mr Potter be elected as the Chairman for this meeting of the Alcohol and Entertainment Licensing Sub-Committee (AELSC).

Mr Potter consented to act as Chairman and duly chaired the whole of the meeting.

Mr Potter confirmed the address of the premises which were the subject of the hearing which would take place in respect to agenda items 3 as being Woodies Brasserie and Bar, 10 St Pancras, Chichester, , PO19 7SJ.

Mr Potter confirmed with the AELSC members that they had received and read the agenda papers for this meeting; namely (a) the agenda; (b) additional information provided by the applicant's agent, Mr Jon Wallsgrove of John Gaunt Solicitors which included a number of proposed conditions by the applicant, including those already agreed in principle with Sussex Police during mediation.

The entirety of the meeting would be held in public session (apart from when the AELSC retired to consider its decision) and therefore there would be no requirement at any point to pass a resolution to exclude any press representatives (none in attendance) or the public (five present).

20 **Declarations of Interests**

There were no declarations of interests made at this meeting.

Woodies Brasserie and Bar, 10 St Pancras, Chichester, West Sussex, PO19 7SJ

The Chairman formally opened the hearing and advised that Mr Bennett, Legal and Democratic Services Manager would retire with the Sub-Committee, in the event of any legal advice being required, when they made their decision in respect of the application.

Mr Foord, Divisional Manager, Communications, Licensing & Events outlined the details of the application for the variation of the premises licence in respect of Woodies Brasserie & Bar, 10 St Pancras, Chichester submitted by Woodies Chichester Ltd of Lone Pine, Bickley Park Road, Bromley, BR1 2BE represented by Mr Jon Wallsgrove of John Gaunt & Partners, Solicitors based in Hampshire.

Mr Foord confirmed that on 6 June 2019 supplementary information was provided to all parties ahead of today's proceedings setting out conditions offered by the applicant which have been agreed in principle with Sussex Police during mediation. No comments had been received from any other person in connection with the proposed conditions. To assist proceedings printed copies of the correspondence were available and enlarged colour copies of the plans included in the report.

Mr Foord confirmed that the representation originally submitted by Mr Naish, Planning Technician with CDC were withdrawn on 11 June 2019 and advised that no weight should be given to its inclusion in the bundle as it was the understanding of this Licensing Authority that the intention of the original correspondence was for information purposes only, in respect of potential future planning requirements.

Mr Foord reported that a copy of the original Premises Licence variation application had been reproduced within the bundle and was summarised in a table format at pages 7 and 8 with a column illustrating the current permitted activities and associated hours under the current Premises Licence.

Mr Foord outlined that the Premises Licence variation application was seeking to provide the addition of 'Live' and 'Recorded music' as new forms of regulated entertainment and amendments to the permitted hours associated with the provision of 'Late night refreshment' and the 'retail sale of alcohol', as follows:

	Standard days, timings and non-standard timings	
	Proposed by Application	Current
'Supply of alcohol' (for consumption 'on' and 'off' the premises)	<p>Sunday to Thursday 10.00 – 23.45</p> <p>Friday & Saturday 10.00 – 00.45</p> <p>Non-Standard Timing or Seasonal variations New Year's Eve 10.00 – 00.45</p>	<p>Sunday to Thursday 10.00 – 23.45</p> <p>Friday & Saturday 10.00 – 00.15</p> <p>No Non-Standard Timing or Seasonal variations</p>

Live Music (Indoors only)	Friday & Saturday 21.00 – 00.00 (midnight) Non-Standard Timing or Seasonal variations New Year's Eve 21.00 – 00.30	Not permitted
Recorded Music (Indoors only)	Sunday to Thursday 10.00 – 00.00 (midnight) Friday & Saturday 10.00 – 01.00 Non-Standard Timing or Seasonal variations New Year's Eve 10.00 – 01.00	Not permitted
Late night refreshment (Indoors only)	Sunday to Thursday 23.00 – 00.00 (midnight) Friday & Saturday 23.00 – 01.00 Non-Standard Timing or Seasonal variations New Year's Eve 23.00 – 01.00	Sunday to Thursday 23.00 – 00.00 (midnight) Friday & Saturday 23.00 – 00.30 No Non-Standard Timing or Seasonal variations
Hours premises are open to the public	Sunday to Thursday 10.00 – 00.00 (midnight) Friday & Saturday 10.00 – 01.00 Non-Standard Timing or Seasonal variations New Year's Eve 10.00 – 01.00	Monday to Thursday 10.00 – 00.00 (midnight) Friday & Saturday 10.00 – 00.30 No Non-Standard Timing or Seasonal variations

Mr Foord clarified that the application as stated by Woodies Chichester Ltd was seeking a variation to an existing Premises Licence. The description of the variation application and operational nature of the business had been provided by the applicant and which would be further explained by Mr Wallsgrove regarding the exact nature of his client's application and the outcome of the mediation with certain Responsible Authorities.

Mr Foord summarised the application explaining Woodies Chichester Ltd submitted a valid application for a variation to an existing Premises Licence on 21 March 2019. The period during which representations could then be made ran for 28 consecutive days concluding on the 18 April 2019. Throughout this period a relevant statutory Notice was displayed at the premises and an appropriate advert published in the West Sussex Gazette on 29 March 2019.

The application attracted a total of 13 representations of which four were from Responsible Authorities with the remaining nine from residents living in close proximity to the application site. The basis of the representations received from members of the public have been predominantly relating to the Licensing Objective of the 'prevention of public nuisance'.

Mr Foord confirmed that the comment originally submitted by CDC Planning Services had been withdrawn and must not be taken into account and that Sussex Police and Mr Horne, Principal Environmental Health Officer acting as lead Responsible Authority for environmental protection issues, in particular noise, had both agreed in principle that their original concerns would be addressed if the proposed terms and conditions were agreed by the Sub-Committee.

Mr Foord explained the applicant had agreed in principle to a number of conditions with Sussex Police subject to them being attached to the Premises Licence if the Sub-Committee were minded to grant the application.

Mr Foord requested that the applicant's representative confirm whether the report outlined their client's application accurately. Mr Wallsgrove confirmed that Mr Foord's introduction as an accurate and thorough appraisal of his client's application.

Mr Wallsgrove explained that he had been fully instructed by his client the applicant, Tim Kelly, who was unable to be present due to illness. Mr Wallsgrove explained his client did not wish residents to be negatively impacted by the operation of the business and following their concerns had reviewed the proposed hours and withdrawn the part of the application regarding the sale of alcohol. Therefore meaning there would be no changes to the hours currently licensing the sale of alcohol. The applicant's business model was to play live music to encourage customers to remain on the premises once they had consumed their dinner, to listen to the music and continue their evening. Mr Wallsgrove confirmed that the Live Music Act 2012 allowed music to be played up until 11.00pm and what was being sought was an additional hour. Woodies had been a landmark restaurant in Chichester for nearly fifty years. Operating a restaurant in Chichester has in recent times been a financial struggle. Woodies had been bought and reopened in March earlier this year. An evening 'out' had changed considerably, with hybrid establishments offering what had previously been provided by public houses, nightclubs and restaurants, which was what Woodies was aiming to do. Offering flexibility for customers, removing uncertainty, and confirming they were welcome to remain on the premises after their meal to have a drink, and this would support the business and make it sustainable, having previously suffered from a challenging period. Mr Wallsgrove confirmed that the premises would not be changing in nature and character remaining a "premium restaurant" offer.

Mr Wallsgrove explained that the Police had asked for SIA security to be present at weekends, but his client, the applicant had felt that Woodies would not be a place that would require such type of support, to which the Police had agreed. Further mediation with the Police via letter had stated that monitoring could be completed by risk assessment produced by the applicant.

Mr Wallsgrove confirmed that the patio at the rear of the premises would not be accessible after 10.00pm and windows will be closed to reduce the level of sound of music being played outside. Customers will be required to leave via the front door only and smokers will only be permitted to do so at the front of the building and will not be able to take drinks with them. Mr Wallsgrove emphasised that no smoking would be permitted at the rear of the premises after 10.00pm and on open drinking vessels would also be permitted to be taken outside the rear of the premises by customers after this time.

Mr Wallsgrove explained that the target customer will not change, with the broad age range appeal being from 30 years to 70 years, and that the premises will not attract a younger crowd. The playing of music will not take place every week, and only on Fridays and Saturdays and therefore should not have an adverse impact on residents.

Mr Wallsgrove also reiterated that the situation could be reviewed at any time and brought back to the Sub-Committee. Woodies would be proactive with regards to complaints from residents, which would be recorded and appropriately acted upon. The applicant has invested significantly, in revamping the building, and has no desire to jeopardise the business by not observing any conditions attached to the licence. The music itself will consist of 'jazz', 'swing', 'blues' and 'soul music', suitable for current customers, not younger clientele such as 25 year olds, thus encouraging customers to stay and spend time and therefore money at Woodies. The applicant had listened to concerns and made adaptations, but it was important that the business is allowed to provide for its customers, to be sustainable. It was not his clients desire to attract a younger clientele based on the significant financial commitment he had made.

Mr Wallsgrove drew attention to email received from the Authority's Health Protection Team, which cited the issue of the lack of an accessible toilet for people with disabilities. Mr Wallsgrove explained that reasonable adjustment under the Equalities Act 2010 had to be made, but due to the design of the building it was not possible to provide such a facility, and therefore this would be an 'unreasonable' adjustment.

Mr Wallsgrove explained that the layout of the premises would allow for eating towards the rear, with customers coming to the front, which is a more relaxed area for what is termed as a 'vertical drinking' space, adding customers will not be permitted to purchase a drink unless they are due to or have eaten on the premises.

Mr Foord asked for clarification regarding complaints made prior to this application (12/4/19) that the outside area had been used after 10.00pm. Mr Wallsgrove responded that the applicant had provided information, that staff were not aware of this occurrence and that this may have been people from other adjacent licensed premises.

Mr Sutton asked if there would be occasional music and different styles of music and commented that Fridays and Saturdays would allow up to a 104 opportunities per annum and further asked if there would be similar entertainment at other times or the provision of a dance floor? Mr Wallsgrove responded that the size of the

premises would not allow for dancing. Mr Sutton asked a further question regarding 'off-sales' and Mr Knowles-Ley, Licensing Manager, confirmed that drink would only be consumed prior to, with, or after a meal, and that a condition was included that 'Alcohol sold for consumption off the premises will be in sealed containers and only as an ancillary to a take away meal'.

Mr Wallsgrove also confirmed that after 10.00pm, the patio at the rear of the premises would only be used as an emergency exit.

Mr Bennett confirmed that Mr Wallsgrove's interpretation of the Live Music Act 2012 was correct. The power to review a licence as noted is also accepted as correct. The lack of an accessible toilet in regards to the Equalities Act 2010 is broadly accepted as also noted by Mr Wallsgrove, but what is or is not a 'reasonable adjustment' is not for consideration at this hearing and is outside the scope of conditions.

In answer to a further question from Mr Knowles-Ley regarding the outside patio area, Mr Wallsgrove responded that it will be reserved for people using the restaurant, that some chairs will be available, but the area is small and it not like a pub beer garden. Mr Knowles-Ley asked for clarification. Mr Wallsgrove the primary focus of the external area is for restaurant users and not critical to the business case.

The following interested parties addressed the Sub-Committee:

Mr B Wilkinson informed the Sub-Committee that he lived in very close proximity to establishment and over several evenings disco music had been heard and strobe lighting used. As the rear of the premises was similar to a greenhouse, it would be difficult to contain the sound. In particular he referred to a particular incident on 27 May 2019 when all tables and chairs had been moved aside in the premises so customers could dance.

Mr P Roberts confirmed he was representing Mrs D Roberts who was unable to attend. Mr Roberts commented that Woodies was not as had been described by Mr Wallsgrove, it was 'not just a bit of jazz' he felt that it was turning into a 'mini nightclub' particularly when the whole of the rear area is cleared.

Mr Elliott asked about when tables are cleared and what takes place after this as comments made by members of the public did seem to be at odds with his clients application? Mr Wallsgrove, explained he did not have any further information and could only follow the instructions given by his client, the applicant.

Mr Horne, commented that there was a spike in noise when customers were leaving, and music was played towards the front half of the premises. During an observation on 4 May 2019 when the premises was operating under a Temporary Event Notice, it was clear that staff were controlling the noise levels, smokers were outside at the front of the premises and were talking loudly. The building was not designed for amplified music and not well laid-out due to the narrowness of the premises. Mr Horne added that staff will have to self-monitor the noise levels.

Mr Horne went onto to say that in his professional opinion he would not want entertainment at the rear of the premises and would not support entertainment other than occasional use whilst recognising the need for a reasonably vibrant night time economy without impacting on the locality.

Mr Bennett sought permission from Mr Wallsgrove to join members of the Sub-Committee as they retired to consider their decision, to provide legal advice only, to which Mr Wallsgrove agreed.

Mr Bennett discussed the final summation with Mr Wallsgrove, as this step in the proceedings was omitted, and Mr Wallsgrove was content with this as his points had been made and he did not require members of the Sub-Committee to reconvene for a summation. Officers also confirmed they were content with this.

The Licensing Act 2003 and regulations require that the Council, as local Licensing Authority, carry out its functions with a view to promoting the four licensing objectives:

- Prevention of crime and disorder,
- Public safety,
- Prevention of public nuisance, and
- Protection of children from harm.

In reaching their determination the Sub Committee must have regard to recently revised Guidance from the Home Office in April 2018, this Council's current Statement of Licensing Policy and both oral and written evidence associated with this application.

The Sub-Committee considered the report and all papers circulated, including those circulated at the meeting. The Sub-committee also noted that a representation from Oliver Naish, planning technician for the authority, was withdrawn and therefore disregarded.

The Sub-Committee also considered the Licensing Act and relevant guidance including the Council's own policies and the Licensing Objectives and the Human Rights Act where it was relevant to their considerations.

The Sub-Committee considered all representations at the Hearing. The Sub-Committee noted that they were all aware of the premises and knew it and its immediate location including the car park to the rear of the Premises.

The Sub-Committee paid attention to each objective but focussed upon the prevention of public nuisance concerns due to the types of concerns raised in that area from local residents in particular but also those from an Environmental Health Officer and Police.

The Sub-Committee noted closely the explanation of Mr Wallsgrove as to the application. The clear explanation of how the concerns of the residents were being approached and the substantial changes to what was applied were noted. The maintenance of hours for licensing activity being sought based upon the concerns of residents were specifically considered important. The explanation as to the

operational reason for the music changed was also noted and the impact of the Live Music Act to allow one additional hour over the core permitted music hours were again noted.

Applicant representations as to the history of the premises, its role primarily as a restaurant and their business needs as to music were noted. The Sub Committee noted the applicant express intention was not to change the character from a restaurant but rather to create flexibility to the clients of the Applicant so as to ensure the premises remain economically sustainable.

Members noted in particular representations as to operational use of the rear area, and the comments from Environmental Health relating to those changes as well as other changes related to noise in particular.

The mediation attempts and history were noted in particular the representations of the police in their final representations and the conditions which were put forwards with approval of expert views of Police and the Environmental Health department.

The Sub-Committee noted Applicant representations that SIA staff is not appropriate to the premises and accepted those representations.

Members put various questions to all parties in listening to their verbal representations.

That one complaint was received as to music this year was noted.

The operation of the Car Park being a public car park often used by several other licensed premises (and other users) was noted.

The Sub-Committee considered the detailed representations of Mr Wilkinson as nearest resident and the impact upon him as he set them out, specifically as to the external area.

The Sub-Committee further considered the representations of Mr Roberts (speaking on behalf of his wife) and again in particular as to the external area.

The Sub-Committee noted the comments of Mr Horne about the details from the applicant which had settled his concerns. In particular again they acknowledged the indications he had received that the external area will not be used after 10.00pm, and as to the control of doorways and the location of music source at the front of the building.

They also noted Mr Horne's comments relating to his visit on a recent Bank Holiday and his experience that the applicant was controlling noise as set out. His views about the premises were clear that the premises are not suitable for loud amplified music, but that "hybrid" level as described by the applicant representative was acceptable but that a reasonable amount of ongoing control will need to be carried out due to the nature of the premises and location. The Sub-Committee found these judgements to be persuasive.

RESOLVED

Taking all of the above into consideration the Sub-Committee decided to GRANT the variation subject to the conditions as set out in the additional representations circulated by Mr Foord on 6 June 2019.

Having made their decision the Sub-Committee also wish to acknowledge and reinforce the advice of Mr Horne about the general noise control required to be maintained by the Applicant in particular of close residents as to the use of the rear area.

22 Consideration of any late items

There were no late items for consideration at this meeting.

The meeting ended at 11.34 am

CHAIRMAN

Date: