



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in Committee Room 1 - East Pallant House on Thursday 23 January 2020 at 10.00 am

**Members Present:** Mr J Elliott, Mr G McAra and Mrs S Taylor

**Members not present:**

**In attendance by invitation:**

**Officers present all items:** Miss H Giudici (Licensing Assistant (Technical)), Mr L Foord (Divisional Manager for Promotion and Events), Ms G Di Lauro (Litigation and Licensing Lawyer), Mr T Horne (Principal Environmental Health Officer) and Mrs F Baker (Democratic Services)

### 35 **To elect a Chairman for this Hearing**

Cllr McAra read out the emergency evacuation procedure for the benefit of the members of the public who were present.

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

Cllr McAra consented to act as Chairman and duly chaired the whole meeting.

Cllr McAra confirmed the address of the premises which were the subject of the hearing which would take place in respect of Agenda Item 3 as; Oakland's Park, Wellington Road, Chichester.

### 36 **Declarations of Interests**

There were no declarations of interests made at this meeting, and all members on Sub-Committee represented wards outside the city of Chichester.

### 37 **Licensing Hearing**

#### *Preliminary Matters*

Cllr McAra confirmed 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 representative or the public.

Cllr McAra formally opened the hearing and introduced the members of the Sub-Committee and the officers present.

Cllr McAra sought clarification as to who was in attendance for the Applicant. Katie Caines, Operations Manager and Sarah-May Clarke, Operations Manager for 'Tom Kerridge presents Pub in the Park' confirmed their representation for the Applicant.

Ms Giusj Di Lauro, Litigation and Licensing Lawyer confirmed her role within the hearing. She explained that her role was to advise the Committee and to ensure that procedure is followed in accordance with regulations set out in the Licensing Act 2003. Ms Di Lauro confirmed that she would retire with Committee to ensure that the Principles of Natural Justice are adhered to in the decision making process. She informed the Committee that their primary consideration was Section 4 of the Licensing Act 2003 and the four licensing objectives contained within. Ms Di Lauro also advised the Committee to consider the Chichester District Council Licensing Policy 2016 – 2021, Home Office Guidance April 2018, Human Rights Act and Section 17 of the Crime and Disorder Act 1998. Ms Di Lauro explained that should any advice be provided to the Sub-Committee once they have retired to consider the application, it would be communicated to all parties when the hearing resumed.

Cllr McAra confirmed the purpose of the hearing was to consider whether to grant a Premises Licence and give consideration as to whether it would be appropriate to attach conditions or otherwise to ensure the licensing objectives are promoted

Cllr McAra confirmed that the Sub-Committee members had received and read the agenda papers for the hearing and therefore there was no requirement to go over evidence which had previously been submitted.

#### *Divisional Manager's Introduction*

Mr Foord, Divisional Manager for Communications, Licensing & Events outlined details of the application submitted by Brand Events TM Ltd of 4 Vencourt Place, London, W6 9NU for a permanent Premises Licence for an event to take place yearly and on an on-going basis for licensable activities to be conducted at the site on three consecutive days in a designated area of Oakland's Park.

He explained that the application related to an event called 'Tom Kerridge presents Pub in the Park', a description and summary of the event was provided on page 6 of the bundle. Mr Foord read out the following from page 6;

*"...a three-day food and music festival celebrating gastropub dining across the UK. Under an invitation from Tom Kerridge, celebrity chefs will be producing Michelin starred dining, replicating dishes from each of their own pubs, whilst the audience enjoys live music and boutique shopping in a relaxed pub garden atmosphere'.*

Mr Foord explained that in order to assist with the proceedings the applicant had provided a document setting out the history and overview of the proposed event including the details of the Pub in the Park tour at other cities in the UK and an operational overview.

For the purpose of clarification Mr Foord explained that the application being considered was for a yearly event, which would be held over three consecutive days and on a continuing basis.

The basis on which the Sub-Committee had been convened was a result of the Licensing Authority receiving three representations. Of the representations received one was from the Chichester Festival Theatre, one was from the council's own Environmental Protection Team (in their statutory role of 'Responsible Authority' under the Licensing Act 2003), and one was in support from a local resident.

Mr Foord informed the Sub-Committee that if they were minded to grant a Premises Licence the permission would be issued to Brand Events TM Limited as a limited company. Katie Caines would be specified on the Licence as the Designated Premises Supervisor being a Personal Licence holder within the London Borough of Hammersmith and Fulham. Mr Foord confirmed that he had spoken to the issuing Authority (as indicated within his report at paragraph 4.8), and there were no reported incidents that they were aware of associated with the Proposed Designated Premises Supervisor.

Mr Foord confirmed that if the decision made by the Committee was to grant a Premises Licence, Brand Events TM Ltd would not be required to seek planning permission for a change of use of the land under consideration. Mr Foord explained that should there be any planning implications, these must and would be dealt with separately to the matters being considered under the Licensing Act 2003, which is the approach supported under the current Home Office Statutory Guidance which is issued nationally to all Licensing Authorities.

Mr Foord confirmed that a full copy of the original application had been reproduced and was included in the bundle at pages 17 through to 35, with a summary provided in the report at page 7.

Mr Foord confirmed that the Agenda papers had been made available to all parties connected with the hearing, as well being made publically available for inspection. The Licensing Team ensured that the statutory Notice of Hearing under the Licensing Act 2003 (Hearings) (Amendment) Regulations was sent to the applicant and all persons who had made relevant representations.

Following receipt of that Notice, a party was required to give the Licensing Authority a notice, stating whether they intended to attend or be represented at the Hearing and whether they considered the hearing to be unnecessary.

Mr Foord confirmed that of the three parties that received a Notice of Hearing the Licensing Authority received one response in time from the Environmental Protection Team confirming their attendance and their wish to address the Sub Committee. The Licensing Team did not receive a response from Mr Daryl Bowen, the local resident who had supported the application and the Chichester Festival Theatre's response was received late, however, it had been considered and accepted as part of the day's proceedings

Mr Foord explained that the papers for the Hearing ran from page 5 to the very end of the bundle which had been provided to the Sub Committee. Included within the papers were copies of all representations at pages 39 to 45. The proposed event site was depicted on page 35 however; to assist in the Hearing proceeding enlarged colour copies of the drawing had been provided.

Mr Foord confirmed for the avoidance of doubt that the application was seeking four Licensable Activities;

- Sale by retail of alcohol (for consumption on and off the premises)
- Live music
- Play recorded music
- Films

The hours being sought for each licensable activity were summarised on page 7 of the report. He confirmed that the no other forms of regulated entertainment had been applied for.

Mr Foord presented a summary of the timeline for the application.

A valid time limited Premises Licence application was made by Brand Events TM Ltd on 26 November 2019. The period during which relevant representations could then be made ran for 28 consecutive days and concluded on 24 December 2019

Throughout the period relevant Statutory Notices were displayed at the proposed event site and the applicant ensured that an appropriate advert was published in the Chichester Observer on 28 November 2019.

During that time the application attracted the three representations.

Mr Foord informed the Committee that he had been made aware that there had been considerable mediation undertaken by the applicant in an effort to address the concerns raised particularly with regards to noise management and the potential impact on the Chichester Festival Theatre. The Theatre's representation received on the last day of the consultation period and included at page 45 of the bundle was shared with the applicant and made publically available at the earliest opportunity. Whilst in principle Chichester Festival Theatre welcomed and supported the idea of an event such as 'Pub in the Park' being held in Chichester concerns had been expressed regarding "noise bleed". A suggestion was made by the Chichester Festival Theatre for the applicant to consider the possibility of moving the event to the previous weekend as at that time no performances were scheduled and therefore it would have minimal impact.

Mr Foord added that he understood developments had been made surrounding the mediation between the applicant and Chichester Festival Theatre and asked that if this were the case that details be made clear to the Sub Committee.

In respect of the noise concerns made by the Environmental Protection Team in their representation received on 10 December 2019, which was included within the

bundle, an agreement in principle had been made in respect of a noise condition and specific requirements being added to the Licence, if granted, by way of a condition to submit and agree and Noise Management Plan.

The Licensing Authority was aware that sound tests were carried out in conjunction with the applicant and Chichester Festival Theatre. Mr Foord confirmed that an initial draft Noise Event Management Plan had been received on Wednesday 23 January 2020 and would be subject to further consideration by the Responsible Authority.

No other Responsible Authority had made representation against this application. No objections were received from members of the public, the only representation received from a member of the public was the supportive comment submitted by Mr Bowen.

Mr Foord reminded the Committee that the inclusion of any proposed conditions was ultimately a matter for the Sub-Committee to determine.

Mr Foord introduced the applicants and invited them to address the Sub-Committee.

Before the applicants addressed the Sub-Committee Mr McAra invited Committee members to ask any questions for clarification purposes before the Hearing continued.

*Mr Elliot asked if the Noise Management Plan was required for both weekends or only if the event were at the end of May?* Mr Foord explained that the Noise Management Plan condition would be attached to the Premises Licence which would only take effect when the licensable activities were taking place.

#### *Applicants opening Address*

Ms Caines confirmed that the summary provided by Mr Foord was a true and fair overview of the licence application.

Ms Caines began by explaining that Brand Events were an established company which had been running for over 20 years and ran a wide range of events both indoor and outdoor. The largest and most notable event run by Brand Events is Carfest; a Children in Need event which hosted 40,000 people every year.

She explained that Pub in the Park had been running for three years, to date there have been 13 'Pub in the Parks', if the licence were to be granted the event in Chichester would be the 15<sup>th</sup> event to take place.

Ms Caines informed the Sub Committee that in the week prior to the Hearing further work had been undertaken on mediation with both Environmental Health and Chichester Festival Theatre. Ms Caines explained that on Monday 20 January a sound test had taken place, the test was conducted using a 'like for like' speaker system at the site location. Noise measurements were taken at both local residential properties near to the planned event location, and at the Festival Theatre. The results were used to develop the first draft of the Noise Event Management Plan. Ms Caines confirmed that the plan had been shared with Environmental Health; and

that Brand Events were in agreement with the subsequent condition that had been put forward by Environmental Health.

Ms Caines confirmed that Brand Events had met with the Chichester Festival Theatre before Christmas and again after they had received their representation. The noise test was undertaken to address the concerns that had been raised by the Festival Theatre in respect of noise leakage from the event. The results of the test highlighted that the planned event would be unable to take place at the same time a production was taking place in the theatre. In acknowledgment of the issue Ms. Caines confirmed that Brand Events Ltd had agreed to move the dates of the planned event to the weekend before as there were no productions taking place at the time; as had been outlined and suggested by the Chichester Festival Theatre in their initial representation. The proposed new event dates would therefore be Saturday 23<sup>rd</sup> May through to Monday 25<sup>th</sup> May which was a Bank Holiday weekend.

*Mr McAra asked Mr Horne, Principal Environmental Health Officer, if he was happy with the progress being made in terms of noise control?* Mr Horne told the Sub-Committee that the situation was still very 'fluid'. The sound tests which were conducted on Monday evening, at considerable expense to the applicant, gave a very strong noise signal across the park which was felt by the Festival Theatre and a number of local residents. Mr Horne explained that the noise test demonstrated a 'worse case' scenario, and on that basis Environmental Health Management had requested further mitigation work to be undertaken. The layout and orientation of the stage had not yet been fixed. Mr Horne confirmed that the initial noise report had been received; it was obvious in the report that a number of ideas had been 'borrowed' from other sites that had been investigated by Brand Events, adaptations would need to be made so that the plan was unique to Chichester. Noise monitoring would be undertaken on site at the event if the Sub Committee were minded to grant the licence. Brand Events would face tight controls and if they did not adhere to the controls in place then Brand Events would be faced with the risk of the Licence being reviewed.

*Mr McAra asked whether the noise testing exercise undertaken on Monday had been a useful exercise.* Mr Horne confirmed that it had been a useful exercise; the full report was still outstanding but an outline Noise Management Plan had been drafted based on projections at other sites.

#### *Oral submissions by the Representors*

*Mr McAra asked Mr Foord if any representors were present.* Mr Foord informed the Sub-Committee that the only organisation in addition to Mr Horne, representing the Environmental Protection Team, was Chichester Festival Theatre; however, Mr Foord explained that the response to the Notice of Hearing from Chichester Festival Theatre had been submitted after the deadline and therefore asked the Sub-Committee if they were willing to allow them to make an oral representation. Ms Di Lauro confirmed that this was within the Sub-Committees discretion. Mr McAra on behalf of the Sub-committee and Ms Caines confirmed that they were happy for the representations to be heard.

The following representors addressed the Sub-Committee:

Ms Kathy Bourne, Executive Director of Chichester Festival Theatre and Mr Daniel Evans, Artistic Director of Chichester Festival Theatre. Ms Bourne thanked the Committee for allowing them to make their representation and apologised for the lack of response to the Notice of Hearing.

Ms Bourne confirmed that meetings had taken place between Brand Events and Chichester Festival Theatre and was grateful for the efforts made.

Ms Bourne explained that their main concern was the level of noise that could be generated from the Pub in the Park event, and the impact that this would have on performance being held within the theatre. The noise test which had been held before the meeting highlighted the concerns that had been raised by the Chichester Festival Theatre and made it very clear that and production in the Festival Theatre would not be able to run alongside the applicants event.

Ms Bourne informed the Sub-Committee that there were no shows being held in the Festival Theatre the week before, and confirmed that Chichester Festival Theatre would be happy to consider the event being held over that timeframe (23<sup>rd</sup> May – 25<sup>th</sup> May 2020).

With regards to the Minerva Theatre Ms Bourne explained that they had planned for a show to be held on Friday 22<sup>nd</sup> May and Saturday 23<sup>rd</sup> May 2020, however, they had agreed to move the planned matinee show to an earlier date in the week and but Ms Bourne stressed they would have to cancel the show planned for the Saturday evening in order to accommodate the applicant.

Ms Bourne stressed that should the licence be granted, the applicant must work with the Festival Theatre to ensure future events do not clash with Festival Theatre productions. As a point of note Ms Bourne reminded the Committee that CDC did fund the Festival Theatre to produce work during the summer season.

Mr Evans concurred with his colleague that the Festival Theatre was very supportive of events coming to the City, but stressed the importance of working in partnership.

Mr McAra asked the Sub-Committee if they had any questions for the representor.

*Mrs Taylor enquired how far in advance the Chichester Festival Theatre planned their performance schedule.* Ms Bourne explained to the Committee that they would expect to be planning two years in advance; however, this could vary between productions depending on factors such as actor availability. Mr Evans added that the any cancellation of big productions such as the summer musical show would have significant financial implications.

*Mr Elliot enquired why the show that was proposed to be cancelled on the Saturday evening could not be rescheduled.* Ms Bourne explained that this was not possible.

*Mr Elliot asked if the Festival Theatre schedule was already in place for 2021 was there potential conflict for next year.* Ms Bourne confirmed that there could potentially be some conflict if the parties did not communicate.

Mr McAra invited Mr Foord to comment. Mr Foord referred those present to the Licensing Act 2003 and explained that the supporting Home Office Guidance encouraged parties to engage with each other, as well as with the responsible authorities and other key stakeholders. He acknowledged that the applicant had been very proactive in their communication with all parties concerned, as well as in trying to address concerns that have been raised. He agreed that communication with the festival Theatre was a critical factor and that should Sub Committee be minded for an annual licence to be granted a suitable condition could be attached.

Mr Foord explained that if the Sub-Committee were minded to grant the presented application then the applicant would need to apply for a minor variation in recognition of the change in dates. The Licensing Authority had no concerns with the minor variation application being applied for.

If the licence were granted the applicant must continue to work with the Environmental Health team to ensure there is an agreed Noise Management Plan in place before the event. Mr Foord informed the Sub-Committee that an initial Safety Advisory Group had already taken place and another Safety Advisory Group would be convened if the licence were to be granted.

*Mr Elliot asked the how many months in advance both parties would need to agree on a future date.* Ms Caines confirmed that from discussions that had already taken place between the two parties both had agreed they wanted to avoid being in the same position next year and potentially thereafter. Ms Caines highlighted that there had been fantastic feedback about the proposed event in Chichester and from the initial sign up to the event it was already more popular than the flagship event. Ms Caines stressed that Brand Events had every intention of making Chichester a home for the event for many years and acknowledged that in order to do this it was imperative to foster strong working relationships with partners and would be happy to work with the Festival Theatre to agree a key deadline for future events. Ms Caines proposed that the event was held over a fixed weekend similar to the Sloe Fair.

Ms Bourne raised concern over the event becoming fixed to a particular weekend due to the uncertainty of what may be on offer to the Festival Theatre. She also stressed that it is imperative that whatever date is agreed it does not clash with planned productions in the Festival Theatre.

*Mr McAra asked Mr Horne if it was possible to provide/build sound buffers.* Mr Horne explained that this was not possible.

Ms Bourne asked as a point of clarification whether the licence, if granted, was for the one event or whether it would be on a rolling agreement. Mr McAra explained that this was for the Sub-Committee to consider as part of their decision

*Divisional Managers Conclusions*

Mr Foord referred to a number of salient points within the council's current Statement of Licensing Policy 2016 - 2021. The Licensing Authority recognised that the entertainment industry in the district was a major contributor to the local economy, attracting tourists, visitors and creating a vibrant community; and providing employment. However, as part of the policy adoption the Licensing Authority also recognised that both the needs of residents and visitors to have a safe and healthy environment in which to live, work and enjoy recreation were to be considered. The adopted policy set out the general approach to be taken when considering applications under the act and each application was viewed on its own merit.

In view of the wide range and variety of applications, the policy could not set out all of the factors which would result in the licensing objective being achieved, nor the necessary and appropriate control measures required for each premises. However, it must be understood that the licensing function was not to be seen as a mechanism for the general control of anti-social behaviour by individuals once they were beyond the direct control of the licensee of the premises or event, as other mechanisms outside the licencing regime were available to address such issues. There was however, the expectation that every licence holder would take responsibility to minimise the impact of the anti-social behaviour of their patrons within the vicinity of their premises, to reflect the measures that are to be taken to achieve this in their operating schedule, and to demonstrate that these are applied in practice.

The Licensing Authority could consider applications for events owned by the council. There was still other mechanism such as hire of land that would need to take place. If permission was granted contractual conditions would also be put in place.

Given consideration to the type of event applied for, the council policy clearly stated that there is a need to encourage and promotes live music, dancing and theatre for the wider cultural benefit of the community.

Mr Foord also referred to the Chichester Vision which included a specific theme to promote a variety of events and activities.

The Sub-Committee retired at 10.45am to makes it deliberations and reach a decision with respect to the application.

### *Decision*

The sub-Committee returned at 11.30am from its deliberations to announce its decision with respect to the application. It was confirmed that Ms Di Lauro was not required to provide any legal advice.

Cllr McAra read out the Sub-Committee's decision which was as he explained an indicative version only. The final version would be published with any necessary corrections.

The Sub-Committee had determined the application for a premises licence in respect of 'Pub in the Park', Oaklands Park, Wellington Road, Chichester, deciding as follows;

The Sub-Committee has heard today an application by Brand Events TM of 4 Vencourt Place, London Limited for a Premises Licence in Oaklands Park, Chichester to run an event called: 'Tom Kerridge presents Pub in the Park'.

The valid application was submitted on 28 November 2019 for a three-day food and music festival. Licensable activities, such as the sale of alcohol and music entertainment will also take place on site. The application seeks a permanent Premises Licence for the event to take place yearly and on an on-going basis.

Three relevant representations were received with regards to this application: one in support from a local food business operator, one against it on behalf of Chichester Festival Theatre and one objection on behalf of a 'Responsible Authority' as defined by the Licensing Act 2003, namely Chichester District Council's Environmental Services.

The representation by the Responsible Authority has been resolved by way of mediation between the parties. It requires the Premises Licence Holder to submit to the Environmental Services a Noise Management Plan at least three months before the event taking place for their approval. This representation was deemed valid as it addressed one of the Licensing Act 2003 objectives under section 4, namely the prevention of public nuisance.

The representation submitted by Chichester Festival Theatre is also in relation to the prevention of public nuisance as the concern expressed is that the music from the event would affect the performances carried out at the theatre on that particular weekend. The Theatre is in the same location where the event would take place, namely Oaklands Park. Chichester Festival Theatre has also asked to be involved in the Noise Management Plan as suggested by the Responsible Authority and to be involved when noise management controls and testing take place. This Sub-Committee is also aware of some other observations made by Chichester Festival Theatre, such as the issue of parking access for its patrons and the access road being potentially affected which is used by the emergency vehicles.

The Sub-Committee, in taking its decision, has not consider matters such as planning or parking and traffic issues as these do not fall under s.4 of the Licensing Act 2003. The Sub-Committee is satisfied that a traffic management plan will be developed between Chichester District Council and the Highways Department of the County Council, therefore ensuring that emergency vehicles are not prevented from accessing the site. It also noted that Sussex Police have not submitted any objections to this application.

The only outstanding valid representation this Sub-Committee has considered is by Chichester Festival Theatre with regard to the prevention of public nuisance. The Sub-Committee has been informed that noise testing has taken place on site and it has been confirmed this was audible inside the Theatre, therefore potentially causing a nuisance during performances.

The Sub-Committee in arriving at its decision has considered all the documents submitted and in particular the Officer's Report, the application and the valid representations made both in writing and verbally. The Sub-Committee has considered all four licensing objectives and their promotion, namely: the prevention of crime and disorder; public safety; the prevention of public nuisance and the protection of children from harm. Due consideration has been given to s.17 of the Crime and Disorder Act 1998 under which the Council has a duty to exercise its functions with regard to the likely effect on crime and disorder in its area and to do all that it reasonably can to prevent crime and disorder.

The Sub-Committee has also taken into account Chichester District Council's Statement of Licensing Policy 2016-2021 and the Revised Home Office Guidance of April 2018. The Sub-Committee has noted Human Rights and Equality considerations.

The Sub-Committee is aware of the fact that, for the year 2020 alone, an application may be made shortly for a minor variation to the Operating Schedule so that the event will take place Saturday to Monday, in particular from Saturday 23 May to Monday 25 May 2020 inclusive. The Sub-Committee noted that Monday 25 May 2020 is a Bank Holiday day.

Having considered all of the factors above, this Sub-Committee has decided to grant this application subject to the following two conditions as well as those already specified:

- 1. At least three calendar months in advance of any event taking place, the Premises Licence Holder shall submit to the Environmental Protection Department a "Noise Management Plan" for prior written approval. Thereafter, any approved "Noise Management Plan" shall be observed and complied with in full. Subject to Environmental Protection being satisfied, written approval will be given no later than two months in advance of an event taking place with any modifications only being made with the consent of Environmental Protection'*
- 2. The specific dates of the events to be held after 2020 shall be determined following consultation with the Chichester Festival Theatre which must occur at least 12 calendar months in advance of any event. The intention of this consultation is for the two parties to seek to achieve suitable dates for any future event which will promote the prevention of public nuisance licensing objectives.*

**38 Consideration of any late items as follows:**

There were no late items for consideration at this meeting.

The meeting ended at 11.40 am

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CHAIRMAN

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Date: