



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in virtual on Friday 30 April 2021 at 9.30 am

Members Present: Mr G McAra, Mr A Moss and Mr H Potter

Members not present:

In attendance by invitation:

Officers present all items:

51 To elect a Chairman for this Hearing

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

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

Cllr Potter confirmed the purpose of the hearing was to consider a full Premises Licence variation application and confirmed the address of the premises which were subject to the hearing which would take place in respect of Agenda Item 3 as The Waterfront Quays and incorporating, The Embassy Club Room, Embassy Club, Family Area, Solent View & Ocean Bar, West Sands Caravan Park, Mill Lane, Chichester, West Sussex, PO20 9BH

The Chairman formally opened the hearing and introduced members of the Sub-Committee and the officers present.

Ms Di Lauro confirmed her role within the hearing. She explained that her role was to advise the Sub Committee and to ensure that procedure is followed in accordance with Regulations under the Licensing Act 2003. Ms Di Lauro confirmed that she would retire with the Sub-Committee, subject to no objection, in order to ensure that the Principles of Natural Justice were adhered to in the decision making process and to provide any other legal advice, as required. Ms Di Lauro explained that should any advice be provided to the Sub-Committee once they had retired to consider the application, it would be recorded in the decision notice.

52 Declarations of Interests

There were no declarations of interests made at this meeting, and all members on the Sub-Committee represented wards outside that of the premises subject of the application.

53 Licensing Hearings

Preliminary matters

The Sub Committee followed the procedure set out on the agenda front sheet.

Mr Knowles-Ley confirmed that all members of the Sub-Committee had been given a list of all the responses to the Notice of Hearing, and confirmed that there were no late responses.

Licensing Manager's Report

Mr Knowles-Ley outlined the details of the application. He explained that this Licensing Authority had been asked to determine a Premises Licence variation application submitted by White Horse Caravan Company Limited of 1 Bartholomew Lane, London, EC2N 2AX in respect of the premises known as The Waterfront Quays. He explained that The Waterfront Quays is a large purpose built entertainment complex located at West Sands Caravan Park, Mill Lane, Selsey, and comprises of a variety of separate areas including The Embassy Club Room, Embassy Club, Family Area, Solent View and Ocean Bar.

He informed the Sub-Committee that the variation application seeks to vary the current Premises Licence held by White Horse Caravan Company Limited since 2010.

To assist with the proceedings, a copy of the current Premises Licence, No. 3815/10/01973/LAPRE was provided at pages 123-134 of the agenda pack. Mr Knowles-Ley had also summarised the current permitted licensed activities and various associated hours in his report at paragraph 4.4 in the second column of the table, shown at page 7 and 8 of the agenda pack.

Mr Knowles-Ley confirmed the timeline associated with the application. The application was accepted as having been validly made on the 26th February 2021. The subsequent period during which relevant representations could be submitted ran for 28 consecutive days concluding at the end of the 26th March 2021. Throughout the representation period statutory notices were displayed at the premises and an appropriate advert published on the 4th March 2021 in the Chichester Observer.

Mr Knowles-Ley informed the sub-committee that a copy of the original application form and proposed revised premises plan had been reproduced in full and could be viewed at pages 19 to 32 of the agenda pack.

Mr Knowles-Ley explained that the application, was seeking a number of changes which were outlined in his report at paragraph 4.3, pages 6 and 7 of the agenda pack. Mr Knowles-Ley highlighted that for completeness it was appropriate to make all parties aware of the contents of original application, however, he explained that the applicant had since requested certain aspects be removed from their application and would clarify these remaining elements later in his report. To surmise he explained that the original application sought the following:

- (a) To extend regulated entertainment, this included the performance of a play, exhibition of a film, indoor sporting events, boxing or wrestling and live music, Monday to Sunday 0900 to 0300 the following morning.
- (b) To extend Late Night Refreshment Monday to Sunday 2300 to 0300 the following morning.
- (c) Approve internal alterations at the premises to include a new double door entrance to the premises, changes to the access to the Ocean Pub, addition of bi-folding doors, repositioning of the bar and creation of a food servery. It is proposed that these alterations would take effect upon the completion of works as notified to the Licensing Authority in writing.
- (d) Amend the wording of condition 1 of Annex 2 to change the wording from *'Members of the Oasis Leisure Complex who hold a current membership pass'* to *'Members of the Oasis Bay who hold a current membership pass'*.
- (e) Amend condition 25 of Annex 2 from *'No 'Live Music' or 'Recorded Music' as a form of regulated entertainment shall be provided in the external Embassy Family area after 22:00hrs.'* to *'No regulated entertainment shall be provided in the external Embassy Family Area after 2300 hours.'*

and

- (f) Change the name of the premises to *'The Waterfront Quays and incorporating, The Embassy Club Room, Embassy Club, Family Area, Solent View & Ocean Bar'*.

Mr Knowles-Ley informed the Sub-Committee that during the representation period, a total of 43 representations were received from members of the public, all in opposition to the application to the original application. No representations from any of the statutory Responsible Authorities specified under the Licensing Act 2003 were received. He confirmed that all representations received were shown at pages 33-121 of the agenda pack. In addition, a plan showing the location of all representors in relation to The Waterfront Quays was provided at page 17.

Mr Knowles-Ley informed the Sub-Committee that at the conclusion of the representation period, the applicant was made aware of the high number and nature of representations that had been received. The applicant considered the contents of the various representations and as highlighted earlier in his report, Mr Knowles-Ley explained that the applicant had consequently offered to remove certain aspects from their application, and confirmed that this Licensing Authority had subsequently written to all representors summarising the proposed changes offered by the applicant. This correspondence could be seen at pages 147-149 of the agenda pack.

Mr Knowles-Ley explained that following the changes written confirmation had been requested from all representors asking; once they had considered the mediation offered by the applicant, they respond confirming whether in principle they would be

prepared to withdraw their representation on the basis of the mediation offered by the applicant. A total of 13 responses were received, however only nine parties indicated that they would be prepared to withdraw their representation.

Mr Knowles-Ley explained to the Sub-Committee which aspects of the original variation application remained and what the applicant was asking for the Sub-Committee to determine. These were referred to at paragraph 6.6 of his report shown at page 9 and 10 the agenda pack. In summary they were as follows:

- (a) Plan change to update to the proposed layout of the premises.
- (b) Amend the wording of condition 1 of Annex 2 to change the wording from *'Members of the Oasis Leisure Complex who hold a current membership pass'* to *'Members of the Oasis Bay who hold a current membership pass'*.
- (c) Amend condition 25 of Annex 2 from *'No 'Live Music' or 'Recorded Music' as a form of regulated entertainment shall be provided in the external Embassy Family area after 22:00hrs.'* to *'No regulated entertainment shall be provided in the external Embassy Family Area after 2300 hours.'*
- (d) Amend the opening hours of the premises from Monday to Sunday 07:00-03:30 to Monday to Sunday 07:30 to 03:30.

Mr Knowles-Ley explained that with respect to the original application requesting the name of the premises be updated to 'The Waterfront Quays and incorporating, The Embassy Club Room, Embassy Club, Family Area, Solent View & Ocean Bar', if the Sub-Committee determines to grant the variation, then they would update the name accordingly.

Mr Knowles-Ley confirmed that the agenda pack had been provided to all relevant parties ahead of the hearing. The statutory Notice of Hearing required under the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005 was sent to both the applicant and all parties who submitted a relevant representation. He explained that following receipt of such notice, a party is required to give to the Licensing Authority a notice stating whether they intend to attend or be represented at the hearing or whether they consider the hearing to be unnecessary. Parties were required to give notice to the Licensing Authority no later than five working days before the hearing.

Mr Knowles-Ley informed the Sub-Committee that the applicant had responded to the Notice of Hearing in time, and of the 43 parties who had submitted a representation and whom had been sent a Notice of Hearing, they had received a total of nine responses. He explained that of the responses received, only three parties confirmed that they would be attending the hearing and six parties had confirmed that they were unfortunately unable to attend. Neither party that were attending the hearing wished to either address the Sub-Committee or wish to be represented. Mr Knowles-Ley confirmed with the Chairman that they and their fellow Sub-Committee members had received a list reflecting all responses received. The Chairman confirmed that they had.

Mr Knowles-Ley drew the Sub-Committee's attention to the various deregulatory changes that have amended the Licensing Act 2003 with regards to certain forms of regulated entertainment. He explained that this deregulation had come into effect since the original Premises Licence was granted in 2010. The deregulation applies where certain statutory criteria is met, for example a performance of live or recorded music is not now licensable where it takes place between 08:00 and 23:00 on premises authorised to sell alcohol for consumption on the premises, and the audience does not exceed 500. In view of the removal from the original application of the proposed extension of some forms of regulated entertainment beyond 23:00, the proposed revision to condition 25 seeking to extend the terminal hour for regulated entertainment in the external Embassy Family Area, would only apply where the entertainment provided does not benefit from the deregulation i.e. where the audience exceeds 500.

In conclusion, Mr Knowles-Ley reminded the Sub-Committee that it was important to be aware that if their decision was to grant the variation, then the inclusion or otherwise of any proposed conditions would be ultimately a matter for the Sub-Committee to determine.

Mr Knowles-Ley asked the applicant's representative; Mr Jonathan Smith, to confirm that his report and summary outlined their client's application accurately. Mr Smith confirmed that it did.

Following Mr Knowles-Ley's report the Chairman invited fellow members to ask any questions they had in respect of his report.

In response to a question from Cllr Moss, Mr Knowles-Ley confirmed that certain forms of entertainment had already been permitted. For example, the performance of a play at the premises can currently take place between 10am and 12am. In addition he informed the Sub-Committee that the applicant had originally sought to extend the 12am permission until 3am, however, following the representations received; this request had been withdrawn from their application. He drew the Sub-Committee's attention to the current permission of live music which could take place at the venue until 3am and there was no proposal to change this. He explained that the applicant had originally sought for all of the licensable activities to have the permission to go on until 3am, but on reflection of the representations they had determined to remove that aspect from their application.

In response to a question from Cllr Moss, Mr Knowles-Ley confirmed that the application sought to only change the name and no further sites (other than what was already included in the currently licence) would be added.

Cllr Potter noted that there had been no representation's from any Responsible Authority.

The applicant confirmed that they had no questions for Mr Knowles-Ley.

Mr Knowles-Ley explained that as there had been no formal request from anyone wishing to speak at the Hearing, that if the Sub-Committee wished to allow representors to now speak at the hearing, that the Sub-Committee may wish to

consult with the applicant in order to confirm that they were willing to hear comments from other parties outside of the formal policy and procedure. Ms Di Lauro confirmed that this was within the Sub-Committee's discretion. Mr Smith confirmed that he would be happy to follow the Sub-Committee's discretion; however, he did ask that it be acknowledged the representations that had been made were mainly in response to the extension of the hours which had been sought to regulate the entertainment and had subsequently been withdrawn from the application.

The Chairman invited Mr Rose to address the Sub-Committee. Mr Rose thanked the Chairman and explained that residents were confused over what the application sought as it appeared that the hours of operation were being extended until 3.30am every night. Mr Rose asked for clarification over the term 'Member's', for example; could people join on the night, could they bring guests, how did someone become a member. In response to Mr Rose, Mr Smith explained that they already had a licence till 3am for; live music, recorded music, performance of dance (and entertainment of a similar description) and alcohol sales, and the venue was required to shut at 3.30am. He stressed that there was no amendment being sought to that aspect of the current licence. With regards to the outdoor area operating until 11pm Mr Smith explained that he would address the Hearing separately on this matter as it would be included as part of his submission.

In response to a question from the Chairman, Mr Rose confirmed that he (and the residents he was with) were unaware of the current licence that allowed certain activities to operate until 3am. Mr Rose asked the Chairman if he could speak again following the applicant's submission. The Chairman acknowledged the request.

Applicant's Opening Address

As the applicant's representative, Mr Smith addressed the Sub-Committee. He explained to the Sub-Committee that the reason an application had been submitted for other forms of entertainment such as; plays, films, indoor sports and boxing to continue until 3am was because the existing hours (as could be seen at pages 7 and 8 of the agenda pack) were inconsistent. For example films and boxing go on until 10pm, whereas plays and indoor sports could go on until midnight, and there were four other forms of regulated entertainment that could all go on until 3am. Therefore whilst the application was being made for a full variation for the premises licence, an application was also made to regulate the hours to make it simpler in the sense that all forms of regulated entertainment would finish at 3am; the same time that alcohol sales would finish. In addition the applicant was also looking to extend the sale of hot food from 2.30am till 3am. Mr Smith stressed that there was never any intention to extend the current hours of operation that are already in place on the licence. In acknowledgement of the question asked by the Chairman earlier to residents, Mr Smith did not believe that residents were aware of the conditions in the current licence and that there was already a current Premise Licence until 3am, with the premises closing at 3.30am. Mr Smith explained that the current licence had been in operation for around 10 years, with very little cause for complaint.

Mr Smith reminded the Sub-Committee that they were being asked to consider the variation application that had been submitted and not reduce the hours of operation,

he stressed that the hearing had not been convened to review the existing Premises Licence.

Following the receipt of 43 representations in response to the application Mr Smith explained that the applicant had determined to completely remove from the application the original elements seeking to extend various forms of regulated entertainment. These would therefore remain as they were already. This had left four parts of the application for the Sub-Committee to consider;

1. To amend the name of the Waterfront Complex to the Waterfront Quays
2. To amend the name of Oasis Leisure Complex to Oasis Bay; this would include the Spa, Gym and Swimming Pool.
3. To amend the plan. Mr Smith explained that because the plan formed part of the Premise Licence, if someone wished to change the plan than an application had to be submitted to the Licensing Authority in order to amend the layout. There are some multi million pound extensions taking place at the venue, some of which was being spent on the Ocean Bar which is an existing licensed area. He informed the Sub-Committee that a brand new kitchen was currently being installed, and therefore approval has being sought. The plans could be viewed at pages 31-32 of the agenda pack. To clarify a question from Cllr Moss, Mr Smith confirmed that the application was not seeking to increase or extend the existing licensed area. In addition, Mr Smith confirmed that they had building regulation approval and planning permission, and there had been no representation to the authorities regarding the alterations.
4. The Embassy Club Area. Mr Smith explained that the Embassy Club area was an external location, which had been used on occasions for events, but not very often. He drew the Sub-Committees attention to a condition on the current licence (included within the agenda pack, and explained earlier by Mr Knowles-Ley) that states 'no live or recorded music as a form of regulated entertainment shall be provided in the external family area after 10pm. The applicant asked that this condition be amended to state that 'no regulated entertainment shall be provided in the external Embassy are will be provided after 2300'. Mr Smith explained that the reason for that request was that in 2012 the Live Music Act was passed. The act was put forward and supported by Fergal Sharkey, with the aim being to allow pubs to play live and recorded music without a licence. The Act does limit the extent and hours that the music can be played, what it does permit is the playing of live and recorded music up to 23:00, for up to 500 people. Therefore any conditions on existing licences that sought to limit what the Act allowed were ineffective. The Live Music Act was extended in 2015 to include other forms of regulated entertainment including plays, dance and indoor sports; therefore from 8am until 23:00, for up to 500 people, that form of entertainment can be provided without a licence. Therefore the applicant requested to amend the licence to reflect the current law. In answer to Councillors' questions Mr Smith confirmed that the applicant would not have an audience of 500 within that area, the largest audience they would anticipate hosting within that area was circa150 people.

Mr Smith confirmed that he would be happy to respond to any questions, following his submission. He explained that Mr Neil Ainsworth, Head of Operations was also present to help answer questions.

Cllr Moss asked if Mr Smith could clarify that the condition in the current licence is 'out of date' and that the sub-committee would just be updating a condition in line with current legislation. Mr Smith confirmed that the only time the condition would come into effect was if there were more than 500 people present. In response to a secondary question from Cllr Moss, Mr Knowles-Ley confirmed that in order to protect local residents and their concerns the current condition could remain and be amended to 11pm, therefore if there were ever more than 500 people present the condition would come into effect. In addition, Mr Knowles-Ley explained that whilst the audience watching a live music event (for example) would be limited to a maximum of 500 people, this was different to the capacity of the venue. If there was any migration of people within the venue that pushed the number of people watching live music to over 500 people then the condition would come into effect. It would be the responsibility of the venue to manage this; however, it was important to distinguish between this and the capacity of the venue. Mr Smith agreed with Mr Knowles-Ley's comments.

Ms Di Lauro reminded the Chairman that he had suggested that following Mr Smith's submission and with his and the Sub-Committee's agreement, residents would be allowed to ask Mr Smith further questions. Following consultation with his fellow councillors and with the agreement of Mr Smith, the Chairman invited the residents to ask questions.

Mr Rose thanked the Sub-Committee and Mr Smith for allowing them to speak. He acknowledged that the application was being submitted to 'tidy up' the current application and bring it in line with current rules, and that many of the listed regulated entertainment such as plays and wrestling were already included within the licence. However, Mr Rose explained that residents were most concerned by the outdoor application, and whilst they acknowledged that up to 23:00 hours and for an audience of under 500 the applicant could do what they wished, they were upset that the applicant would consider any form of outside entertainment after 22:00, and disturb the 12,000 residents of Selsey and in particular those that lived within earshot of the venue. Mr Rose felt that the applicant had failed to reassure residents, he referred to smashed bottles on the beach, break-ins, increased littering and excess noise caused from 'revellers' leaving the venue and was concerned that there would be an increase in anti-social behaviour. Mr Rose expressed disappointment that Selsey Town Council had not responded to the consultation. Mr Rose asked the Operations Manager to guarantee that there would be no outdoor events after 22:00.

In response to Mr Rose, Mr Ainsworth informed the Sub Committee that he had worked for Bunn Leisure since 2016, prior to the present company taking over the site and was fully aware of the situation regarding the operation of the venue over the last five years. He explained that the outdoor area that the residents were concerned about had not been used since 2018 for any form of entertainment. It had been used for various forms of entertain including a darts tournament, when these event were held a marquee was erected and numbers were limited to 100 -150. He acknowledged the local residents' concerns, and the fact that many were unaware of the permissions under the current licensing arrangements that were already in place, he highlighted that many of the employees were local to Selsey and it was not

the intention of the applicant to upset or cause aggravation to the local community. Mr Smith informed the Sub-Committee that he would be more than happy to provide local residents with a direct line phone number to both him and his PA. In addition, Mr Smith informed the Sub-Committee that following the representations received they immediately went out to residents and started mediating with them and withdrew the additional hours, he stressed that this was not something they were required to do as they were not seeking to extend any regulated entertainment past 3am. In respect of the outdoor area Mr Smith confirmed that they would like to keep it and the permission, particularly in current circumstances when everyone is encouraged to be outside, as there are a lot of limitations about what can take place indoors.

The Chairman asked Mr Rose if he felt more assured by what Mr Smith and Mr Ainsworth had said. Mr Rose agreed that it would be great if a direct phone number were available, and asked if it could be emailed to the 43 people who responded to the application. He also informed that Sub-Committee that residents were discussing setting up a Residents' Association so that they can officially speak as one voice. Mr Rose asked Mr Ainsworth to give a verbal assurance that no loud music would be played after 22:00.

In response to the comments made Mr Knowles-Ley stressed that it was important to recognise that the current Premises Licence has 28 specific conditions attached to it, therefore there is a general duty on the applicant to ensure that the operator complies. Mr Knowles-Ley highlighted that it would be a criminal offence not to comply with the attached conditions, he explained that the conditions were placed on the licence to promote the four licensing objectives. He acknowledged that Mr Smith would be acutely aware of the conditions and the expectation on his clients. Mr Knowles-Ley highlighted condition 23 to the Sub-Committee; this condition discussed external checks that must be in place to confirm the volume of sound associated with the regulated entertainment does not give rise to public nuisance. Therefore, there is already an expectation that the operator will run their operations properly. Mr Knowles-Ley explained that if there is any degree of unreasonable disturbance to local residents as a result of the licensable activities being conducted at that premises, then any Responsible Authority or any other person could submit a request for a formal review of that licence. Such a review would come before a Sub-Committee, however, such a request must be supported by evidence and relate to that specific operation, he stressed that this is a last resort and the licensing authority tries to work with operators to avoid such event. There is an expectation that operators will comply with their conditions.

In addition to Mr Knowles-Ley's comments, Mr Smith highlighted that there was a general duty under the Environmental Protection Act not to cause a statutory noise nuisance, which would lead to a noise abatement notice. Mr Smith also stressed that it was in the applicant's interest to not cause a noise nuisance from music being played outside as a review by the Sub-Committee could revoke the benefits that the applicant is currently entitled to through the Live Music Act, for example preventing them from playing live music outside.

In summing up the application Mr Smith informed the Sub-Committee that their client had mediated to remove the extension of hours from the original application.

He did comment that it was unfortunate that residents were unaware of the current licensing provisions as some of the issues may have been avoided. Mr Smith explained that the remaining variations were limited to include; changes of names, some works that have been done as part of the multi million pound refurbishment and the change to the outside area. Mr Smith reminded the Sub-Committee that there had been no representations made to the application by any Responsible Authority. The Sub-Committee were being asked to consider the variation application and not review what was already in place, therefore Mr Smith asked any conditions or variations that the councillors felt minded to attach were attached only as a result of the variation application.

Before adjourning, Ms Di Lauro explained that she would be retiring with the Sub-Committee (Mr Smith confirmed that he was happy for her to do this). Ms Di Lauro explained that she would be advising the councillors to consider the variation application, and remind them that they are not reviewing the licence. She confirmed that what was already in place on the licence could not be taken away. She will ask councillors to consider the original application; the representations that have been made to the Sub-Committee and to consider the new proposed variations from the applicant. Ms Di Lauro explained that she would also remind the committee to focus on Section 4 of the Licensing Act 2003 and consider the public interest in promoting the four licensing objectives;

- Prevention of crime and disorder
- Public Safety
- Prevention of Public Nuisances
- Protection of Children from Harm

Ms Di Lauro explained that the Sub-Committee must also consider; Chichester District Council's Statement of Licensing Policy (which was available to view on the website), the most recent Home Office Guidance (April 2018), section 17 of the Crime and Disorder Act 1998, as well as the Principles of Natural Justice, Human Rights considerations and the Equality Act. Ms Di Lauro explained that if any further advice is given to the Sub-Committee this would be repeated when the sub-committee reconvene to give their determination.

Ms Di Lauro informed the Hearing that when the Sub-Committee reconvenes they will indicate what their determination is, the determination will be followed by a full determination stating all the reasons and the grounds substantiated in writing within five working days as the legislation permits. A copy of the full determination will be sent to all interested parties.

Determination

**the Sub-Committee reconvened at 11.26am*

The Chairman read the following statement;

'This Sub Committee has listened to all the relevant parties and their representations to this application. Particularly the concerns expressed by Mr Rose on behalf of the residents, it was noted that few of the objectors were aware of the existing licence which is in place. The various activities which have been withdrawn

shows the understanding of the applicant in recognising the objectors concerns which the committee consider appropriate. The change of the name of the establishment is of little or no concern, nor is the proposed alteration to the fabric and layout of the building. Consequently, this Sub-Committee has agreed to grant this variation, but in doing so, it recommends that the residents do form a group and that Mr Neil Ainsworth, on behalf of the applicant seeks ways in which to liaise and have dialogue with such a group.

The variation to the condition for the extra hour of regulated entertainment has been recognised, and the Sub-Committee consider it to be reasonable.

The Chairman confirmed that an extended version of the determination would be posted within five days. Ms Di Lauro confirmed that the full determination would list all that had been varied and the reasons.

The meeting closed at 11.30am

54 Consideration of any late items as follows:

There were no late items.

The meeting ended at 11.36 am

CHAIRMAN

Date: