



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in virtual on Thursday 5 August 2021 at 9.30 am

**Members Present:** Mrs T Bangert, Mr A Moss and Mr A Sutton

**Members not present:**

**In attendance by invitation:**

**Officers present all items:** Miss H Giudici (Licensing Assistant (Technical)), Mr D Knowles-Ley (Licensing Manager) and Ms G Di Lauro (Litigation and Licensing Lawyer)

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

The Sub Committee elected Cllr Sutton to act as Chairman for the hearing. Cllr Sutton consented to act as Chair and duly chaired the whole meeting.

Cllr Sutton confirmed that the purpose of the hearing was to consider a full Premises Licence application and confirmed the address of the premises subject to the hearing as The Community Hall, Donegall Avenue, Chichester, PO19 1TY.

Cllr Sutton informed the Sub-Committee that the objector had not been able to attend the Hearing. He confirmed that their representation to the Sub-Committee would be taken into consideration.

Cllr Sutton explained in certain circumstances it a Hearing may be adjourned to a date when the objector can attend, however, he understood that the objector had been given the opportunity to send a representative, although none had been sent. In addition to adjourn the Hearing would delay the Licence application to the end of September 2021 (the objector had also been made aware of this delay). Therefore, in his opinion it was not necessary to adjourn the Hearing, both Cllr Bangert and Cllr Moss agreed.

#### *Preliminary Matters*

The Sub-Committee followed the procedure set out at page 3 of the agenda pack.

### 64 **Declarations of Interests**

There were no declarations of interest.

Cllr Sutton invited Ms Di Lauro to explain her role.

Ms Di Lauro 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. She confirmed that she would retire with the Sub-Committee, to ensure that appropriate consideration would be given to the following during the decision-making process; the promotion of the four licensing objectives; the Home Office Guidance (April 2018); and the Licensing Authority's Licensing Policy 2020 – 2022, as well as all representations. She would also ensure that the Principles of Natural Justice were adhered to and 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 it would be recorded in the decision notice.

#### *Licensing Manager's Introduction*

For clarity Mr Knowles-Ley, Licensing Manager, informed the Sub-Committee that applicant was the Chichester Community Development Trust (CCDT) and was represented at the Hearing by; Clare De Bathe, Trust Director; Clare Robinson, Partnership Co-ordinator and Nathan Evans, Events and Operations Co-ordinator.

Mr Knowles-Ley outlined details of the application and confirmed that the application was for a new Premises Licence at, The Community Hall, Donegall Avenue, Chichester, PO19 1TY. He informed the Sub-Committee that the full application was included at pages 9 to 31 of the agenda pack.

He explained that the CCDT are a registered charity with the Charity Commission of England and Wales, and quoted the summary provided on the Charity Commission website.

Mr Knowles-Ley clarified that the retail sale of alcohol was the only licensable activity sought in the application. He explained that the applicant had requested that the Management Committee collectively take supervision for all alcohol sales in place of an individual DPS and drew the Sub-Committee's attention to Form L70 set out on pages 21 – 25 which confirmed this request. Mr Knowles-Ley clarified that the applicant was entitled to do this as the premises met the required definition of a Community Building and was operated by a Management Committee.

Mr Knowles-Ley outlined the application timeline to the Sub-Committee and confirmed that statutory notices were displayed at the premises as well as an appropriate advert being published in the Chichester Observer. He explained that there had been three representations all in objection to the application. Objections received were from two local residents, as well as Sussex Police in their role as a Statutory Responsible Authority under the Licensing Act 2003. All representations could be viewed in the agenda pack from pages 33 to 42. The map included at page 7 showed the location of representors in relation to the premises.

Mr Knowles-Ley informed the Sub-Committee that the applicant had undertaken mediation with all parties that submitted a representation in objection to the

application. Following discussions with Sussex Police the applicant agreed to several conditions proposed by the Police. The conditions were detailed in a letter from Sussex Police, Mr Knowles-Ley confirmed that the letter had been circulated to all parties. An email had also been received from Mr Nathan Evans on behalf of the CCDT confirming they agreed to the proposed conditions.

In recognition of the remaining objections from Mr Jones and Mr Parr, Mr Knowles-Ley informed the Sub-Committee that the applicant had offered further conditions which were detailed on the updated pages of the application form and were included at pages 43 and 44 of the agenda pack. In addition, the applicant had confirmed that no outside area was being included within the application and all alcohol sales and consumption would take place indoors. Furthermore, the licence would not be extended to people or groups who hire the hall but kept for the exclusive use of CCDT and the events they host.

Mr Knowles-Ley informed the Sub-Committee that following mediation the Licensing Authority had written to Sussex Police, Mr Jones and Mr Parr to ask if they would be willing to withdraw their representations. Mr Jones and Sussex Police did withdraw their representations, however, Mr Parr did not. Relevant correspondence was included at pages 45-64 of the agenda pack.

Mr Knowles-Ley advised the Sub-Committee that Mr Parr had met with representatives from CCDT on 30 July 2021 for mediation, however, Mr Parr confirmed that the meeting had been unsuccessful, and his representation remained.

Mr Knowles-Ley confirmed that a copy of the agenda pack had been provided to all relevant party's ahead of the meeting, along with the statutory notice of hearing which was sent to the applicant and all parties that had submitted a relevant representation. He explained that upon receipt of the statutory notice a party is required to inform the Licensing Authority whether they intended to attend the Hearing or not; be represented at the Hearing; or whether they consider the hearing to be unnecessary. Mr Knowles-Ley confirmed that the applicant had responded within the required time, and Mr Parr had responded to confirm that he would attend the Hearing and address the Sub-Committee.

However, due to a private appointment Mr Parr was unable to attend the Hearing, Mr Knowles-Ley informed the Sub-Committee that given the exceptional circumstances Mr Parr had been invited to nominate a representative to speak on his behalf at the Hearing or to submit a written statement. He confirmed that Mr Parr had submitted a short-written statement which had been circulated to all concerned parties ahead of the Hearing.

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

Mr Knowles-Ley asked Mrs Clare de Bathe, on behalf of the CCDT as the applicant, to confirm that his report and summary outlined their application accurately. Ms de Bathe confirmed that it did.

The Chairman asked members of the Sub Committee if they had any questions following Mr Knowles-Ley's report.

Cllr Bangert asked Mr Knowles-Ley if an alcohol licence had ever been considered before at this premises. Mr Knowles-Ley confirmed that it had not. To clarify he explained that the application was one of five applications submitted by CCDT in March 2021, each for a different location. The application being considered was the only application which had remaining representations following mediation by CCDT.

Cllr Bangert asked Mr Knowles-Ley if, in his opinion, the applicant had been fully participant in mediation. Mr Knowles-Ley advised that in his opinion and from information he had reviewed he felt that the applicant had been fully participant in mediation and had worked hard with all parties to try and alleviate concerns raised. Mr Knowles-Ley asked Mr Evans (who had been involved in much of the mediation on behalf of CCDT) if he agreed. Mr Evans confirmed that he had undertaken successful mediation with Sussex Police and Mr Jones who represented the Graylingwell Park Residents Association.

Cllr Bangert enquired if alcohol was currently brought onto the premises for events and whether there had been any previous concerns from Sussex Police. Ms Du Bathe informed the Sub-Committee that birthday parties could bring in a licensed bar. She explained that the premises had been managed by CCDT since 2014 and that alcohol was served at roast lunches and heritage talks but not sold, however this was no longer viable which was why an application had been submitted. A community consultation had been undertaken and people had indicated that they would like to be able to purchase a glass of wine at quiz nights (for example). She confirmed that there had been no previous issues with Sussex Police.

Cllr Moss asked which individual would take overall responsibility for the license; Mr Knowles-Ley explained legislation had changed to allow for premises that are available to the community and operated by a management committee; such as village halls etc to not have an individual Designated Premises Supervisor. CCDT was a management committee and would take responsibility for alcohol sales. The L74 had been submitted with the application and shared with all responsible authorities.

Cllr Sutton asked if it would be possible for an outside agency to apply for a temporary licence if they wished to serve alcohol; Mr Knowles-Ley confirmed that they would.

#### *Applicants opening address*

Mr Knowles-Ley introduced Ms Du Bathe who would be speaking on behalf of the applicant CCDT.

Ms Du Bathe informed the Sub-Committee that prior to their application being submitted the Management Committee undertook an extensive piece of community consultation with the residents of Rousillon Park, Gralingwell, Keepers Green and other locations nearby including East Broyle and Summersdale. Residents were asked what they would like to see within their community, the research was undertaken by volunteers, the Residents Association, and members of the Shadow Management Committee at Rousillon Park.

The information from the consultation had allowed CCDT to develop a strategy about how they use their buildings and what is offered where. The desire for regular Sunday Lunches to be provided was one of the main requests which came out of the consultation.

Ms Du Bathe explained to the Sub-Committee that CCDT were very mindful that the venue was in Rousillon Park which was a residential area. She assured them that the premises were always shut at 10pm, and no one apart from the cleaner (who entered the building at 8am) went on site until 9am. There have been no noise complaints since the building began to operate.

Ms Du Bathe explained that CCDT had a 250-year lease on the building which was owned by Hastoe. Since submitting the licensing application Ms Du Bathe informed the Sub-Committee that CCDT had liaised with Hastoe, the Residents Association, the Shadow Management Company group, and the 'official' Management Company. She explained that CCDT were represented by residents on both the Board of Trustees and Management Committees.

Ms Du Bathe explained the way CCDT were governed and operated to the Sub-Committee. She informed them that in 2009 CCDT had a turnover of £60,000 it now had a turnover of over £1 million, they employed local residents and had over 60 volunteers. CCDT had been working to ensure that what they do would remain viable in the future.

She assured the Sub-Committee that there would be no permanent bar or optics along a wall, alcohol would only be brought in for specific CCDT events, such as Sunday Roasts which are held weekly and Fish and Chip quiz nights which are held monthly.

By having the licensing there would be greater protection afforded to residents through further training and ensuring best practice is in place. In addition, Ms Du Bathe informed the Sub-Committee that CCDT were already license holders at The Pavillion.

In the absence of the Mr Parr, the objector, Cllr Sutton sought advice from Ms Di Lauro to clarify how the Hearing should proceed. Ms Di Lauro advised and clarified how the Hearing should continue in Mr Parr's absence.

Cllr Sutton asked fellow members of the Sub Committee to confirm that they had read Mr Parr's email dated 2 August 2021, both Cllr Moss and Cllr Bangert confirmed that they had read the email. The applicant confirmed that they had also read the email.

Cllr Sutton invited members of the Sub-Committee to ask questions.

Cllr Moss asked for further clarification regarding the details of who would be the license holder. For background Ms Du Bathe explained how CCDT operated. Herself, Clare and Nathan were employees of CCDT and their work was overseen by the Management Group, above that was the Board of Trustees. CCDT met bimonthly with the Management Group and quarterly with the Board of Trustees. The Management Group and Board of Trustees oversaw that employees undertook the Think 25 training and achieved the agreed noise targets. In addition, Mr Knowles-Ley explained that if the Sub-Committee were to grant a Premises Licence the Section 25a would be attached. This would state that every supply of alcohol must be made or authorised by the Management Committee. Ms Du Bathe explained that at an operational level she would act as the named person, CCDT also produced a spreadsheet for all events which would identify which member of staff would be the point of contact at that event. She assured the Sub-Committee that this information would be made available at all events.

Ms Di Lauro asked Mr Knowles Ley to clarify whether the Section 25a which would be attached to any Premise License granted, would also include the Trust Director along with the Management Committee. Mr Knowles-Ley explained the 'Alternative Alcohol Condition' made it very clear that the Management Committee take responsibility. However, the Sub-Committee could attach an additional condition to ensure a designated member of staff was on site when alcohol was being served if they felt that was required. Mr Knowles-Ley drew the Sub-Committee's attention to page 23 of the Agenda Pack where CCDT had stated that there would be a designated member of staff at all events. Ms Di Lauro reminded the Committee that a designated person did not have to be present at the event.

Cllr Moss asked who opened and locked the building; Ms Du Bathe explained that those who hire the building receive a key safe code, she assured the Sub Committee that no alcohol would be kept on site.

In addition, Mr Knowles-Ley informed the Sub-Committee that the applicant had amended their application to confirm that no third party would benefit from their Premises Licence. The licence would only be used by CCDT.

Cllr Bangert enquired how often the venue was used, and how would the license be of benefit; Ms Du Bathe explained that since Covid the venue was operating at around 70% occupancy. The licence would allow best practice to be achieved by CCDT.

Cllr Sutton asked Ms Di Lauro to clarify whether Mr Parr's email dated 2 August 2021 was relevant to the consideration. Ms Di Lauro advised the Sub-Committee that it did form part of the representation already made and therefore it should be considered. However, it should be given little weight as the email referred to the mediation between the representor and CCDT and it was not for the Sub-Committee to consider the detailed account of the conversation but note that mediation was unsuccessful.

Cllr Sutton noted that the initial representation referred to noise and asked Mr Knowles-Lay for further clarification. Mr Knowles-Lay confirmed that the Environmental Health team were served a copy of the application and had raised no objection. Ms Di Lauro confirmed that the parking issue referred to within the representation was not relevant and should be given little weight. In addition, Cllr Sutton asked Ms Du Bathe if she would like to make any further comments regard the representation in the Agenda Pack; Ms Du Bathe explained that a bollard would be installed outside the venue to prevent vehicles from mounting the pavement.

In response to the question regarding past noise complaints; Mr Knowles-Lay informed the Sub-Committee there had been three noise complaints all from the same complainant. He reminded the Sub Committee no comments had been submitted by the Environmental Protection team. Mr Knowles-Lay confirmed that if a Premises Licence were granted and future complaints were brought forward the Licensing team would investigate. In addition, Ms Du Bathe explained that the noise complaints were historic and due to soundproofing issues with the building which had since been resolved.

Cllr Bangert enquired how often the applicant had met with Mr Parr; Ms Du Bathe confirmed that the applicant had met with Mr Parr on several occasions. Ms Du Bathe explained that there was a resident representative on both the Management Committee and the Board of Trustees to ensure that residents comments are represented.

The Sub-Committee confirmed that they had no further questions.

#### *Applicants Closing Statement*

Ms Du Bathe stated that CCDT were very pleased to have the support of the Residents Association, the Freeholder, the Management Company, the Shadow Management Company, and residents.

To have a licence is best practice and will help ensure future viability.

#### *Licensing Manager's Closing Statement*

Mr Knowles-Lay explained that the Licensing Act 2003 and supporting regulations require the Licensing Authority to carry out their functions to promote the four licensing objectives;

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

When reaching their determination the Sub-Committee must have regard to; the statutory guidance issued by the Home Office 2018; the Council's current statement of Licensing Policy along with all written and oral evidence submitted to the Sub-Committee in association with the application being considered.

Mr Knowles-Ley referred to several matters contained within the Council's current Statement of Licensing Policy;

He explained that the Licensing Authority recognised that the entertainment industry in the District was a major contributor to the local economy. It attracted tourists and visitors and made for vibrant communities, as well as being a major employer. The policy recognised the needs of residents and visitors for a safe and healthy environment in which to live, work and enjoy their recreation.

The policy set out the general approach that would be taken when considering applications under the act; each application would be considered on its own individual merits. In addressing the licensing issues, the authority would have regard to wider considerations affecting the amenity of an area, including littering and fouling; noise; crime and disorder and the capacity of the District infrastructure and resources.

The policy clearly states that the licensing function should not be seen as a mechanism for the general control of anti-social behaviour of individuals once they are beyond the direct control of the licensed premises concerned, as there are other mechanisms outside the licensing regime to address these issues. However, every licence holder is expected to take responsibility in order to minimise the impact of anti-social behaviour from their patrons within the vicinity of their premises.

The policy recognises that the licensing function is only one way of delivering the licensing objectives and is not a panacea for solving all problems within the community. The Licensing Authority will continue to work with all other parties to promote the four licensing objectives. Account will be taken of the need to encourage and promote live music, dancing, and theatre for the wider cultural benefit of the community, if representations were made concerning the potential for disturbance in a particular neighbourhood then the Licensing Authority would consider the cultural merits of the application carefully against the achievement of the Licensing objectives.

#### *Determination*

This Sub-Committee has read all the documents regarding this matter and heard from all parties present at the hearing, namely from the Licensing Manager and the Applicant (Chichester Community Development Trust, the 'CCDT'). The Sub-Committee also carefully considered relevant representations made by Mr Kenneth Jones, Mr Graham Parr and Sussex Police.

This Sub-Committee noted that, after successful mediation between the Applicant and Sussex Police/Mr Jones, both parties were prepared to withdraw their representations. In particular, conditions proposed by Sussex Police have been accepted by the Applicant. However; some of the conditions which Sussex Police had originally suggested regarding the sale of alcohol to third parties/hirers of the venue and the sale of alcohol off the premises and the consumption of alcohol outdoors, such as on the terrace, were no longer applicable as the Applicant had



agreed to amend their application and restrict the retail sale of alcohol to the CCDT only and indoors only.

The Sub-Committee has reached its Determination by considering all the facts of the case against the promotion of the four Licensing Objectives under section 4(2) of the Licensing Act 2003:

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

This Sub-Committee has considered The Home Office Guidance of April 2018 and this Licensing Authority's Statement of Licensing Policy 2020 - 2022 as well as all other statutory requirements, such as the Human Rights Act 1998, the Equality Act 2010 and its duty under section 17 of the Crime and Disorder Act 1998. This Sub-Committee has given due regard to principles of natural justice, such as right to a fair trial, right to be heard and to remain impartial and objective at all times when considering all evidence and reaching this Determination.

In particular, this Sub-Committee considered the only outstanding relevant representation by Mr Parr with regards to his concerns about parking at the venue and one episode mentioned in his representation of a parent mounting the pavement and a child attempting to run straight out of the front door of the premises towards the car. The Sub-Committee considered this concern against the Licensing Objectives of public safety and the protection of children from harm; however, it concluded that it would attach little weight to it. This is because if the parking arrangements were such an issue, including obstructing the emergency services accessing the premises, a representation would have been made, most likely, by the responsible authority, this being the Sussex Fire & Rescue Service; moreover, the incident outlined had happened in conjunction with children attending classes and was not in relation to the consumption of alcohol on the premises. The Sub-Committee also noted that consumption of alcohol was already taking place by attendees bringing their own alcohol or the attendees hiring a licensed bar which had been operated under the authority of a Temporary Event Notice under the Licensing Act 2003 and there had been no reports of concern at those events. Moreover, the Sub-Committee has been reassured by CCDT that they are in the process of obtaining quotes for bollards to be installed at the entrance.

This Sub-Committee considered Mr Parr's issue around sound affecting the residents and linked this to it having regard to the prevention of public nuisance licensing objective. This Sub-Committee noted that none of the residents living above the Community Hall had lodged any representations during these proceedings. Furthermore, the Environmental Protection Team of this Council had not made any representations regarding this issue. The Sub-Committee has been

reassured by the Applicant that extensive works had been undertaken in 2017 regarding soundproofing the venue.

This Sub-Committee considered the issue raised by Mr Parr about this application being a potential breach of the Lease; however, it attached no weight to this as it is not within the remit of this Sub-Committee to deal with matters concerning a Lease.

This Sub-Committee was satisfied by the Applicant's statement that they do engage with the local residents on a regular basis and in fact, the residents' representatives sit on both the CCDT's Board and Management Committee. This Sub-Committee noted that, should issue arise if a licence were to be granted, the licence may be subject of a formal review at any time instigated by any party. The Sub-Committee was satisfied that, even though for a 'community premises' a Designated Premises Supervisor is not required by the Licensing Act 2003, that there would be a standard condition prescribing that every sale of alcohol under the Premises Licence must be made or authorised by the Management Committee. The person ultimately accountable to both the Board and the CCDT's Management Committee is the Board Director.

In conclusion, this Sub-Committee has decided to **GRANT** a Premises Licence in the amended terms as applied for and including all standard conditions and all those agreed with Sussex Police through mediation. Only the Chichester Community Development Trust may undertake the retail sale of alcohol at the premises. Further, this is indoors only at its own events and in accordance with the following hours:

EVERYDAY - FROM 9:00 TO 21:30

There may be further conditions attached to this Premises Licence that transfer automatically from the application or are mandatory under the Licensing Act 2003. Full details will be provided when the Premises Licence is issued.

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CHAIRMAN

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Date: