



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in Virtually on Friday 1 October 2021 at 9.30 am

Members Present: Mr A Moss, Mr H Potter and Mrs S Taylor

Members not present:

In attendance by invitation:

Officers present all items: Mr D Knowles-Ley (Licensing Manager) and Ms G Di Lauro (Litigation and Licensing Lawyer)

67 To elect a Chairman for this Hearing

Ms Di Lauro opened the hearing and confirmed her role within the hearing as the Litigation and Licensing Lawyer.

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

Cllr Moss consented to act as Chair and duly chaired the whole meeting.

Cllr Moss confirmed the purpose of the hearing was to consider a full Premises Licence application and confirmed the address of the premises which were subject to the hearing REDH, 11 North Street, Midhurst, West Sussex.

The Chair formally opened the meeting and introduced all those present, including fellow members of the Sub-Committee, officers, the applicant and representors.

68 Declarations of Interests

There were no declarations of interest made.

69 Licensing Hearings

Mr Foord, Divisional Manager for Communications; Licensing & Events outlined details of the application. Explained that application relates to the site at 11 North Street, Midhurst, West Sussex. The basis on which this Sub-Committee had been convened was that 13 representations had been received, 11 of these representations were from members of the public, 1 from Sussex Police and 1 from the Environmental Protection Team at Chichester District Council.

Mr Foord, confirmed that following mediation by Sussex Police with the applicant, evidence had been provided to the Council of an agreement having been reached in principle between the applicant and the Police in their role as a Responsible Authority. This had resulted in revised and new conditions which are shown at pages 96 to 103 in the agenda pack. He confirmed that any result of mediation was ultimately for the Sub-Committee to determine. Further mediation with the Councils Environmental Protection Team can be seen at page 88 of the agenda pack associated with potentially reduced hours.

Mr Denny confirmed he was happy with the report presented by Mr Foord.

The Chairman then asked if there were any further questions from the Sub-Committee members of which there were none.

Mr Foord then invited Mr Denny to summarise his client's application along with providing any additional comments he wanted to make. Having summarised his client's application the Sub-Committee members were then invited to ask any further questions of Mr Denny of which there was one from Cllr Potter which was seeking clarification as to whether the operational hours applied for, were similar or the same as his client's other premises in Haslemere. Mr Denny confirmed that they were similar. Further clarification was sought as to why there was a need for the premises to have a license that incorporates an 8:30am start time to sell alcohol. The Chairman then asked his question which specifically related to the management of the incident book that had been proposed. He also wanted clarification regarding the retail sale of alcohol in the evenings in terms of customers purchasing alcohol and then taking it off site. Mr Denny provided a detailed response to the questions asked of him.

Mr Foord confirmed that the retail sale of alcohol that was to be taken off site was required to be in sealed container, and this had already been covered by a condition set out in the documents within the original Police representation on page 107 in the agenda.

Ms Di Lauro confirmed that management of the incident book was also a condition documented within the Police representation.

The other representors in attendance at the meeting were then invited to present their case to the Sub-Committee.

Mrs Jandac, who had made a relevant representation, outlined her concerns to the Sub-Committee. She referred to the mediation that had taken place with the applicant, and confirmed that her concerns remained as to the lateness of the opening hours and the effect of noise created by people leaving the premises and those arriving in vehicles to purchase alcohol as an off sale.

Responding to questions from the Sub-Committee Ms Jandac confirmed that the condition now proposed requiring all sales of alcohol to be sold in sealed containers would not alleviate her concerns expressed. Closing hours of 11:00 or 11:30 hours would be more in keeping with the area.

Mr Denny explained that people leaving the premises after midnight would have been drinking on the premises rather than collecting an off sale. There would be a gentle reduction in business until the terminal hour and no regulated entertainment was sought. If any issues did arise they would be quickly addressed.

Mr Foord advised that the need for a premises licence concerned the commercial demand and was a matter for the Local Planning Authority and the hospitality sector. Mr Foord confirmed it was not a matter for the Licensing Authority.

Due to technical difficulties Mrs Simmons was not able to address the Sub-Committee as the Responsible Authority for Environmental Protection. Instead Mr Foord referred to paragraphs 7.1 and 7.2 of the report that summarised the mediation that had taken place between the Environmental Protection Team, Sussex Police and the applicant. The outcome of the mediation could be found at attachment D. The Environmental Protection Team concerns predominantly the hours of outside use and the Team had reiterated their desire for conditions which ought to be offered by the applicant to be included in their licence if the Sub-Committee was minded granting a premises licence.

The Chairman read out the comments Mrs Simmons had put in the meeting “chat” confirming that the Team did not receive any complaints when the premises had previously been open as Pizza Express. The suggested closing time was suitable. Any complaints received would be investigated and a review of the licencing conditions requested if necessary.

Mrs Simmons confirmed to the Sub-Committee with a “thumbs up” and “nod” that the Environmental Protection Team was now satisfied following changes to the application and proposed conditions that the issues had been resolved.

Mr Foord referred to the applicant’s comments at page 88, confirming that they would be happy to cease the provision of the retail sale of alcohol in the external area at 23:00 and ensure that the external area was cleared by 23:30.

Mr Denny confirmed that he did not have any questions for Mrs Simmons.

Mrs Jandac did not have any questions for Mrs Simmons.

The Sub-Committee did not have any further questions.

Mrs Di Lauro sought clarification that Sussex Police’s request for an amendment to the operating schedule so that the hours for the retail sale of alcohol are reduced by 20 minutes to 00:10 hours every day allowing for the closure of the business at 00:30 hours. Mr Denny advised that the applicant has accepted this condition suggested by Sussex Police. On a practical basis the intention would be to terminate the retail sale of alcohol at 00:00 hours every day and confirmed that he was in agreement to amending the operating schedule to reflect this new time. However, it was not clear when off sales would have to stop and advised that personally he considered that 00:30 was an acceptable time.

Mr Foord advised that the consumption of alcohol was not a licensable activity. The only matter for consideration was the sale of alcohol on and/or off the premises.

In his closing submission, Mr Foord advised that the Licensing Authority in making its decision was required to consider the Licensing Act 2003 and supporting regulations, the four licensing objectives, the Council's Statement of Licensing Policy, the Home Office Guidance, and the written and oral evidence heard at the Hearing. In particular he referred to paragraphs 2.9, 2.10, 2.11 of the Council's Statement of Licensing Policy. However, every licence holder was expected to uphold what was set out in their operating schedule and what was converted into licensing conditions.

All parties confirmed that they were satisfied they had said all they wished to.

The Members of the Sub-Committee then retired to discuss and make their decision, Ms Di Lauro having first obtained the consent of all parties to retire with the Sub-Committee in order to offer further legal advice, only if required.

When the Sub-Committee returned, the Chairman advised that the Sub-Committee had received advice from Ms Di Lauro on legal points already highlighted earlier.

Resolved

That the Sub-Committee has considered an application for a premises licence by RedH limited, Unit 2, Station Road Industrial Estate, Station Road, Liphook. The application was for a restaurant and shop called RedH, North Street, Midhurst for the retail sale of alcohol on and off the premises, with the original proposed hours of 08:30 to 00:30 every day and the retail sale of alcohol to cease outdoors at 00:30 hours every day. The second licensable activity applied for was the provision of late night refreshments indoors only from 23:00 hours to 00:30 hours every day. Opening hours proposed were every day from 8:30 to 00:30 and the external area to close at 23:30.

The Sub-Committee considered the application as originally submitted, all valid representations made in writing and verbally at the hearing, the written Officer's Report and his verbal presentation at the hearing and the applicant's submissions at the hearing as well as all the documents enclosed in the pack. The Sub-Committee attached weight to the two representations which were received by the Responsible Authorities of Sussex Police and the Environmental Protection Team as described in the pack. The Sub-Committee noted that the applicant has accepted all the conditions as suggested by both Responsible Authorities who, on that basis, stated they would not object in principle to the granting of the licence. The Sub-Committee, in reaching its decision focussed its mind on the promotion of all four Licensing Objectives under Section 4 of the Licensing Act 2003 and in particular the issue of prevention of public nuisance and of crime and disorder as these were the main issues in the representations submitted.

The Sub-Committee noted that there have been no complaints so far about these premises from the public or any Responsible Authority because this is a new application and therefore, the issues raised by the representors are currently a

matter of future concern to them. Some reference was made by the representors about the previous business of Pizza Express which operated at this address in relation to public nuisance and some of its customers climbing over the wall and causing noise disturbance; however, the Sub-Committee attached little weight to this as it deemed it not to be fair and relevant to compare the nature of this previous operator to the applicant's business and its future compliance within the spirit of the 4 Licensing Objectives. The Licensing Officer confirmed that no complaints had been received by the Licensing Authority and the Environmental Protection Team about the previous operator at this premises. Further, the Sub-Committee heard from the applicant that, even though the proposed closing hours were to 00:30, it did not mean that the premises would remain open until then as it may close earlier depending on business needs. The applicant stated that the outside area would primarily be open in the summer period as entirely weather-dependant. The Sub-Committee noted that applicant stated it would invite the residents to discuss any issues of concern which may arise in the future. One of the main concerns by the residents-representors was the retail sale of alcohol, on and off the premises to 00:30 which was also the proposed closing time and that this would potentially cause noise disturbance and anti-social behaviour late at night. The applicant stated that it was willing to end the retail sale of alcohol at 00:00 and had agreed with the Environmental Protection Team to cease this activity in the outdoor area at 23:00.

In relation to Public Safety, the Prevention of crime and disorder and the Prevention of public nuisance, the Sub-Committee heard that the applicant had accepted all the conditions proposed by Sussex Police which included, amongst others, the installation of CCTV cameras and the requirement to store the footage for a minimum of 31 days as well as the deployment of SIA (Security Industry Authority) door supervisors at the premises. The SIA supervisors would also be required to maintain an incident log book to be made available to any Responsible Authority. Moreover, Sussex Police had required that all retail of alcohol for consumption off the premises would be in sealed containers and this condition has been accepted by the applicant. As far as the Protection of children from harm, the applicant had consented to Sussex Police's condition of operating within the age verification policy, including the 'Challenge 25' policy and that the applicant would ensure that all staff members shall receive training on the lawful selling of age restricted products and this would include refresher training every six months. A record of such training would be kept by the applicant for inspection by any Responsible Authority. The Sub-Committee is reassured, by the fact that the legislation allows for future reviews of a premises licence, should issues arise and the concrete evidence is there to back them up. The Sub-Committee, having heard all relevant representations is satisfied that the promotion of the 4 Licensing Objectives can be achieved at this stage.

DETERMINATION

The Sub-Committee has therefore decided to GRANT the Licence subject to all the mandatory conditions and all those conditions as proposed by Sussex Police as well as the condition proposed by the Environmental Protection Team of ceasing the retail sale of alcohol in the outdoor area at 23:00 every day. The Sub-Committee has also decided to end the retail sale of alcohol for consumption on and off the premises at 00:00 every day.

Therefore the Licence is granted as follows:

1. Retail sale of alcohol on and off the premises: Every day from 8:30 to 0:00 (this to cease in the outdoor area at 23:00 every day)
2. Late Night Refreshment, indoors only: Every day from 23:00 to 00:30
3. Opening times: Every day from 8:30 to 00:30 with the outdoor area to close at 23:30

A full and binding determination will be issued in writing to all relevant parties within five working days as required by the legislation.

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

The meeting ended at 11.20 am

CHAIRMAN

Date: