



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held on Wednesday 24 November 2021 at 2.30 pm

Members Present: Mr C Page, Mr A Sutton 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 Communications, Licensing & Events) and Ms G Di Lauro (Litigation and Licensing Lawyer)

75 To elect a Chairman for this Hearing

Cllr Taylor proposed Cllr Alan Sutton as Chairman. Cllr Page seconded the proposal.

Resolved

That Cllr Sutton be elected Chairman of the Sub-Committee.

76 Declarations of Interests

No interests were declared by members present at the meeting.

77 Licensing Hearings

Applicant Present

Mr M Horstead and Mrs K Horstead.

The Chairman opened the meeting and introduced Mr Laurence Foord, Divisional Manager for Communications, Licensing and Events, as the licensing team representative.

Mr Foord confirmed that there were no items arising from Regulation 6 (notice of hearing) of the Licensing Act 2003 (Hearings) Regulations 2005. He also confirmed that no representations had been withdrawn. The applicant and Sussex Police had agreed conditions in principle.

The Chairman introduced fellow members, officers present, the applicants and representors. He explained that the nature of the decision is to consider the

granting, or otherwise, of a premises licence for the sale of alcohol, indoors only, at 'Dartagnan', 39 North Street, Chichester, PO19 1LX.

The Chairman asked Mr Foord to introduce his report.

Licensing Application

Mr Foord explained that the Sub-Committee is convened to determine an application made by Mr Matt Horstead, of 46 Maplehurst Rd, Chichester, for a permanent Premises License under the Licensing Act 2003.

The application relates to a site at 39 North St, Chichester trading as Dartagnan Clothing – a male retail store. The business is described by the Applicant in page 21 of the pack as “*clothing retail for men, split over three floors; two for retail, one for office and a small bar area for customers to sit and enjoy a drink whilst shopping*”.

Mr Foord clarified that the basis on which the Sub-Committee has been convened is because of the Licensing Authority (CDC) receiving five relevant representations in opposition to the application. Three from members of the public, one from Cllr Martyn Bell and one from Sussex Police in their role as a Responsible Authority under the Licensing Act 2003. He explained that the main concerns related to the promotion of two licensing objectives, namely; The prevention of public nuisance and the prevention of crime and disorder, if a license is granted as per the original application. (Shown as attachment 3 on page 19 of the pack).

Mr Foord drew the Sub-Committee's attention to paragraphs 4.4 and 4.5 of his report, highlighting for the avoidance of doubt, that it seeks a license for the one licensable activity of the Retail Sale of Alcohol for consumption on the premises only. The hours which would be applied to the license would be Monday to Saturday from 10am until 8pm, and from 11am until 4pm on Sundays.

He informed the Committee that on 16th November this authority received a request from Mr Horstead asking for the circulation of a message to the Representors to clarify certain points of his application and hopefully appease any concerns associated with it.

The Chairman asked Mr Horstead if Mr Foord's report had outlined his application accurately. He agreed that it was but clarified the opening hours of his shop did not mirror the times applied for in the License. He stated that his shop closes at 5pm Monday to Saturday and would only be open until 8pm on approximately three Thursdays in December for seasonal late-night shopping, and at very occasional in-store, VIP events.

At this stage in the meeting no questions were posed by Members to Mr Foord and the Chairman invited Mr Horstead to address the Committee.

Applicant's address

Mr Horstead likened his desire, in applying for this license, to that of a hairdressing business nearby who hold a license which allows them to offer their customers a

drink whilst on the premises. He commented upon the many difficulties faced by the retail sector over the last two years in relation to the COVID-19 pandemic. He hopes that the option to offer customers an alcoholic drink while shopping will enhance their experience and help draw people away from the internet and back to the high street.

Mr Horstead noted that he felt objectors had misunderstood his intentions in applying for this license. He clarified that his intention is not to turn his business into a conventional bar or meeting spot where crowds might gather, but simply to offer his customers some refreshment whilst shopping which could also be tea, coffee, or a soft drink – all of which are offered. He also noted external support for his application from Chichester BID.

The Chairman invited Committee Members and Representors to ask any questions of Mr Horstead.

Cllrs Taylor and Page asked for confirmation that Mr Horstead did not intend to sell alcohol as a singular, separate monetary transaction. He confirmed that alcohol would only be offered to customers buying clothes, thus forming part of that transaction. He noted however, that there may be exceptional circumstances in the year, when special events are held, where alcohol might be sold separately, though emphasised his earlier comments that his primary intention is for customers to enjoy a drink whilst shopping.

Mr Bell raised concerns relating to fire safety, specifically a shared fire escape on the second floor and asked if a numeric capacity was applied as part of the granting of such a License. Mr Foord informed the Committee that the Licensing Authority is not the authority which specifies capacity or deals with fire safety.

Mr Horstead confirmed that the Fire Service has audited the store, highlighting four or five minor issues (an absent fire escape sign, emergency lighting, an additional fire extinguisher and more staff training), all of which are being addressed appropriately. He confirmed that the Fire Officer has given him a 24-week period to apply the recommendations, before another audit.

Mr Foord confirmed that the Fire Service had been consulted in their role as a Responsible Authority under the Licensing Act 2003 as part of the application process.

The Chairman invited Mr and Mrs Bell to address the Committee.

Representor Statements

Mrs Bell noted that Mr Horstead has been a good neighbour since his store moved to the site neighbouring their property three years ago. She explained that their main concern related to a shared fire escape door connecting the second floor of Dartagnan and their home. The fire door is openable to a bedroom in their house. As it provides the only fire escape for anybody occupying the upper floors of the shop, Mr and Mrs Bell have given Mr Horstead a demonstration of the door from their side and a tour through their house, showing him where keys are kept for the

front door, back door and back gate; ensuring their home can be used as an escape if required.

This means that anybody in the shop effectively has access to their home. Mrs Bell explained this has been done in good faith, although it has always given them a slight feeling of unease regarding their security, especially when away on holiday.

Mrs Bell highlighted that Mr Horstead has had the misfortune of being burgled several times and whilst this has obviously affected his business it has also had an impact on them. She drew the Committee's attention to a particular incident when, after being advised by the police to go back to bed, they were woken by their intruder alarm indicating somebody had entered their home on the top floor. Mrs Bell emphasised that this had been extremely frightening and had left her with continued anxiety. Her concern was that the presence of alcohol in the shop might lead to further burglaries.

Mr Bell raised a further issue relating to noise, especially given that the two properties are adjacent terraced houses. He noted that Mr Horstead has been cooperative in moving speakers to reduce noise disturbance and that although they can still hear music, it doesn't constitute a nuisance. He is concerned however, that the introduction of a bar area and the sale of alcohol might lead to an increase in noise levels. Mr Bell asked for clarity that the drinking of alcohol, if the license is granted, will only be inside, not outside in the courtyard.

Cllr Bell drew the Committee's attention to the Sussex police conditions, which were published on 21st October and had been accepted in writing by Mr Horstead. He highlighted a section of the Police conditions: 'That the sale of alcohol will be ancillary to the main purpose of the premises which is clothing retail', focusing on the times associated with the application. He questioned why, if Mr Horstead's retail business usually closes at 5pm, the application was for a license to sell alcohol until 8pm; suggesting that this could be perceived as an application for 'a wine bar or drinking establishment in disguise'. Cllr Bell noted however, that Mr Horstead had addressed this earlier with his clarification regarding the rarity and specificity of late opening hours. Echoing earlier concerns, he also asked for reassurance that alcohol would only be sold and consumed inside the shop.

The Chairman confirmed that the application was for an inside license only, and should Mr Horstead want to serve alcohol outside it would be subject to an additional application. Mr Foord verified this for the Committee, and emphasised for the avoidance of doubt that the application was seeking a permanent Premises Licence for the one licensable activity of the retail sale of alcohol for consumption on the premises and did not seek any external areas associated with this activity. All sales, and the consumption of alcohol are to take place indoors only. If the application were granted this would form part of the permission and, legally, must be adhered to.

The Chairman noted Mrs Bell's concerns regarding the fire escape before inviting Mr Horstead to make any comments or ask any questions of the representors.

Mr Horstead acknowledged the concerns of Mr and Mrs Bell. He offered assurances by way of explaining the only activity which takes place on the top floor of his

business (where the door leading to Mr and Mrs Bell's house is located) is invite-only suit fittings. He confirmed that the floor is not used for browsing and would not form part of any in-store events. He also offered assurances that his intentions are genuine and transparent in relation to the licence application, emphasising that there was no 'under-hand' intention to establish his business as a wine bar or drinking establishment. He added firm assurance to Mr and Mrs Bell that he has no intention to add any additional speakers, nor to increase the volume of the music in his shop and remains very mindful of the noise disturbance to them as his neighbours.

The Chairman invited Mr Foord to highlight any key points of the licensing policy, and to summarise before deliberation. Mr Foord referred to the Licensing Policy for the period 2020-2022. He noted that each application is taken on its own merits, based on the nature of the application, nature of the premises and nature of the activities being applied for. He confirmed that each application is considered against the licensing authorities' policy and the national guidance. Mr Foord advised that if a license is granted, the licensing authority expects the holder to take responsibility to minimise the impact of anti-social behaviour of their patrons within the vicinity of their premises and within their premises. He further explained that any conditions attached to a license must be appropriate and necessary, and that the license holder must ensure that the conditions are applied and adhered to. With reference to Mr and Mrs Bell's concerns regarding the shared fire escape Mr Foord advised that these concerns, if required, should be raised with the relevant authority – in this case the Fire Service.

The Chairman asked Ms Di Lauro, senior Licensing Lawyer, to explain what her role will be if she retires with the Committee members to deliberate the case. Ms Di Lauro confirmed that she will not take part in the decision-making process and does not have a say in the final decision. She further explained that her role is to advise on legal and procedural matters as they occur. She invited the Committee to consider all aspects of the case, taking into account the presentations by all parties, including the representation submitted by Sussex Police. She also advised that the Committee must bear in mind the four licensing objectives; the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. She echoed Mr Foord in advising the Committee must not consider issues outside of the jurisdiction of the Licensing Committee, such as fire safety. Ms Di Lauro confirmed that a decision will be given during this meeting, but that it would be a brief, verbal decision with a more comprehensive written version to follow. The written decision will form the binding Determination and will be provided to all parties within five working days.

The Committee retired for deliberations.

The Committee returned and Ms Di Lauro confirmed that she had not given any additional advice during deliberations.

Resolved

The determination of the Committee is as follows:

‘This is the determination of Chichester District Council’s (CDC) Alcohol and Entertainment Sub-Committee in relation to an application for a premises license for the retail sale of alcohol for consumption on the premises only, indoors only.

The relevant address is ‘Dartagnan, 39 North Street, Chichester, PO19 8LX. The hours applied for are from 10 til 8, Monday to Saturday, and 11-4 on Sunday.

The Sub-Committee has considered all the circumstances of the case as outlined in the papers included in the pack. It has heard all the representations made orally at the hearing as well as the Licensing Manager’s report. It has considered the representation made by the responsible authority of Sussex Police and attached great weight to this. Further it has heard the concerns of the representors regarding the prevention of public nuisance and the prevention of crime and disorder; but it is satisfied that these licensing objectives as well as the other two of public safety and the protection of children from harm can be adequately promoted by the granting of this licence, with all the mandatory conditions and those suggested by Sussex Police.

The Sub-Committee is satisfied that the issue of the fire escape and other matters regarding fire regulations are being addressed by the Applicant in conjunction with the relevant authority, which is West Sussex Fire and Rescue Service.

The Sub-Committee is satisfied that should issue arise in the future that adversely impacts on the promotion of the four Licensing Objectives, this license can be reviewed. **Therefore, this Sub-Committee has decided to grant this premises license for one single licensable activity of the retail sale of alcohol for consumption on the premises only, and indoors only, with all the mandatory conditions and those as advised by Sussex Police, for the following hours: Monday to Saturday from 10:00am to 8:00pm and on Sunday from 11:00am to 4:00pm.**

A full binding Determination will be issued in writing within five working days.’

The Chairman thanked all parties for their attendance and ended the meeting.

The meeting ended at Time Not Specified

CHAIRMAN

Date:

