



Minutes of the meeting of the **Alcohol and Entertainment Licensing Sub-Committee** held in Committee Room 1, East Pallant House on Wednesday 21 September 2022 at 9.30 am

Members Present: Mr J Elliott, Mr G McAra and Mr H Potter

Members not present:

In attendance by invitation:

Officers present all items: Mr D Knowles-Ley (Licensing Manager) and Mr N Bennett (Divisional Manager for Democratic Services)

78 **To elect a Chairman for this Hearing**

RESOLVED

That Mr Potter be elected Chairman of the Sub-Committee.

79 **Declarations of Interests**

There were no declarations of interests.

80 **Licensing Hearings**

Applicant

Ms M Luckes, Luckes Ltd

Mr J Cottrell, Business partner and freeholder of 40 North Street

The Chairman opened the hearing.

Mr Knowles-Ley confirmed there were no items arising from Regulation 6 (notice of hearing) of the Licensing Act 2003 (Hearings) Regulations 2005. He confirmed that one representation, from Mrs Fallowfield, had been withdrawn. With regards to the persons who had made relevant representations under the Licensing Act, three requests to speak were received within the requisite five working days and four were received after this date. However, he pointed out that the bank holiday on 14 September 2022 had shortened the consultation period. It was for the Sub-committee to determine if they were in agreement to the three late responses being considered today.

The Sub-Committee was in agreement to the three late representations being allowed to present to the Sub-Committee.

Mr Knowles-Ley outlined details of the application for a premises licence made by Luckes Ltd. He outlined the licensable activities requested, as set out on pages 6 and 7 of the agenda papers. It was noted that Mrs Luckes held a current personal licence. A valid application was received on 28 July 2022 and the required 28 day public consultation period had ended on 25 August 2022. During this time the required notices had been displayed at the premises and a public notice placed in the Chichester Observer series of newspapers.

Representations were received from the responsible authorities for Sussex Police and Environment Protection had made representations. Sussex Police having entered into mediation with the applicant who was happy with an additional condition concerning the protection of children from harm concerning the inclusion of a condition, set out in attachment D of the agenda papers. The suggested condition required that all staff members engaged in the selling of alcohol should receive induction and refresher training, which had been agreed in principle with the applicant. The applicant had offered to meet all parties at the premises. On 12 September 2022 all relevant parties were issued with the proposed additional condition and it was a matter for the Sub-Committee to decide.

The applicant confirmed that Mr Knowles-Ley's submission was an accurate resume of the application.

The Sub-Committee did not have any questions concerning Mr Knowles-Ley's address.

Mrs Simons, Environmental Protection Team (EPT) responded to a number of questions from the Sub-Committee. It was confirmed that the EPT would have welcomed the submission of a noise impact assessment as part of the application. She confirmed that following a change in planning legislation planning permission was not required for the change of use for the premises.

Mr Cotterell was invited to address the Sub-Committee.

Mr Cotterell informed the Sub-Committee that he was the freeholder of 40 North Street. He lived locally and had operated a couple of businesses in the District. The premises had remained empty since the previous business, Jack Wills, had vacated the premises a year ago. His intention was to create an outstanding high quality venue in what he considered was a beautiful building. It would be a venue that did not create loud noise, being similar to other premises such as The Kennels, Goodwood and The Pig, Madehurst. The venue would principally be used for private functions, including weddings, and would not involve late night licensing.

Ms Luckes explained that with regards to the licensable activities and hours proposed, she realised that the application might look alarming. However, their agent had advised them to submit a blanket application to cover all bases. Therefore, there was a mismatch with their vision compared to the proposals submitted by their agent, but was necessary to enable the premises to cater for the

events side of their business. It was confirmed that these events would not take place every day with the aim being for providing quality over quantity and would negate reliance on Temporary Event Notices. Ms Luckes provided details of her current bistro business in North Street. She would use her knowledge and skills to create something special and apologised that the proposals looked alarming to residents. The proposed business needed to be commercially viable and if a wedding event could not finish past 23:00 hours it was unlikely that a booking would be made. It was hoped to attract a discerning clientele and any bookings would require a contract to be signed to include how guests should behave. There would also be a strict dress code. There was a nice lawn area at the front of the building, where the drinking of alcohol could take place, but not late into the evening. The business would be unlike a number of premises in South Street, with a different clientele, that stayed open until 02:00 hours. Piped music would be played inside the premises only. Weddings would take place in the basement, which was below ground without windows. It was acknowledged that in hindsight the application should have been more specific. However, since the submission of the application some of their plans had changed as a result of the cost of living increase and the Ukraine war resulting in higher bills for the business. Originally the restaurant was going to be open five or six days a week, but it was now better for the business model to focus on holding events, which would also be better for nearby residents. They had offered the fitting of a noise limiter, with pin code, to ensure loud music was not played. A single extraction unit for the oven was proposed and no large fridge condensers would be positioned outside. Large vent ducts would not be used as they had plans to manage this in other ways, including the use of one of the chimney breasts.

Mr Cotterell stated that they cared about any impact the proposal may have on nearby residents, which was why they had asked to meet them to discuss their proposals. He would be in agreement to the following amendments to their application:

- Live Music: Sunday to Wednesday – 23:00 hours with the exception of special events (Live and recorded music was not a licensable activity before this hour)

The Sub-Committee asked the applicant a number of questions.

Ms Luckes clarified that the business might not operate seven days a week and may become a wedding venue exclusively. With regards to the exit points, a side passage leading to the public car park could be utilised, which was also the entrance where deliveries would be taken. The front entrance was their preference for customers to enter and exit the premises. It was clarified that music would not be played outside the front of the premises. It could be used for the serving of canapes with this area not used after 23:00 hours. The intention had been to introduce a member only Priority Associates scheme but had been reassessed due to the current economic crisis. Members could bring guests if such a scheme was in place. The premises would not become a noisy venue and nor would there be “happy hour” drink promotions. Children would be on the premises when food was being served. The internal area of the premises was large enough to hold weddings without the need for a marquee. Security staff would be employed during events to protect visitors from any gate crashers. Adjustments would be made for visitors with

disabilities, such as a disabled toilet, depending on planning regulation and listed building constraints.

A number of representors who had made written representations asked questions of the applicants and received responses as follows:

Mr Bell, Ward Member: Mr Cotterill said he was very aware that should he sell the business the buyer of that business could apply to transfer the premises licence to them for a fee. He confirmed that if this happened the premises would not become a low cost venue as this would devalue the building. The building had, however, been brought as a long term investment. Ms Luckes advised that she had managed businesses in Chichester for the past five years. Her family had previously run a business in Chichester in their family name for a number of years and hoped that in the future her son would take over the family businesses. Mr Cotterill advised that if the proposed premises use caused issues he would close the business. In response to Mr Bell's comments about the proposal for the sale of alcohol until 01:00 hours compared to the earlier finishing times at Purchases and the Harbour Hotel, Mr Cotterill reiterated that the hours applied for were following the advice of their agent. Ms Luckes added that their agent had suggested the inclusion of a condition stating if the business was sold on the premises licence could not automatically transfer to the new owner.

Mr Knowles-Ley clarified the procedure for the transfer of a premises licence if no objections were received from the Police or Licensing Authority to check the transferee was a fit and proper person. Today's hearing was dealing with the licensing application and the four licensing objectives that will underpin the application. If the licence was granted and issues occurred there was a right to request a review of the Premises Licence by the Sub-Committee.

Mrs Simons, Senior Environmental Protection Officer, Environmental Protection Team addressed the Sub-Committee.

Mrs Simons explained that whilst she had no objection to the proposed use itself she did have concerns that the proposal had the potential to cause a public nuisance. Her concern was that the applicant had not adequately demonstrated that the noise concerns raised in her initial response would be addressed. There was uncertainty as to how the egress of noise from the premises, including the lawn area, would be controlled and was keen that the applicant should offer a noise impact assessment. It was fundamental that the premises, being a grade 2 listed building, should be assessed by a competent person. Such an assessment should take into account all areas of the building that would be used for the licensable activities and the different uses proposed to ensure there were viable noise mitigation measures. There should be a requirement that doors should remain closed. Until a test was carried out the egress of noise via doors, windows and vents. Unacceptable noise may be created from the use of the outside area until 11:30 hours and the opening of doors by customers having a cigarette in the outside area. A condition was sought requiring the applicant to install a noise monitor. Ms Simons acknowledged that mitigation was difficult as the proposed use had not yet commenced.

The Sub-Committee asked a number of questions following Ms Simons address.

Referring to the applicant's confirmation that they were in agreement to the sale of alcohol finishing at the earlier time of 00:00 hours, the installation of a noise limiter and that agreement that the playing of live music and recorded music would only be played in the basement, a comment was made whether there was a way forward concerning the acceptability of a noise limiter. Mr Cotterill advised that on 23 August 2022, two days before the end of the consultation period no formal representation or clarification of which licensing objectives were the issue. Their agent had made officers aware of this concern, as representations must clearly set out which of the licensing objectives it was considered were not being met. Ms Luckes added that it was understood there were some noisy venues in North Street and reiterated this was not the intention for their premises.

Ms Simons advised that if listed building consent was refused further mitigation measures would be required to counter any noise level issues.

It was noted by the Sub-Committee that planning permission was not required as a change of use from retail to business had previously been granted.

Mr Cotterill advised that secondary double glazing could be fitted to reduce noise levels but it would affect the aesthetics of the building. He had agreed to the installation of a noise limiter.

Mr Bennett advised that with regards to any listed building consent, this issue was a planning matter and would be dealt with separately to the matters being considered under the Licensing Act 2003. It was challenging to set conditions when there were currently so many unknowns and set solid and accurate conditions based on what may happen in the future.

Mrs Simons advised a late response had been sent due to time constraints and a more detailed representation sent shortly before the consultation deadline.

Mr Knowles-Ley sought confirmation from the applicant as to the areas of the premises where regulated entertainment and the sale of alcohol would take place.

Ms Luckes advised that marriages would take place on the first floor with low level ceremony music played during the ceremony. Following the ceremony the wedding party may move to the lawn area outside the premises before the reception, which would take place in the basement. Security doormen would be on duty.

Mr Knowles-Ley confirmed that the playing of low level music was incidental to the retail sale of alcohol, which as a result would be exempt from being licensed under the provisions of the Live Music Act.

Mr Thompson, Senior Environmental Protection Officer, Environmental Protection Team referred to discussions held with the applicant's agent and advised that it was a common request to require a noise impact assessment so that any potential issues regarding noise levels could be assessed and in turn would inform the conditions.

The representors were given the opportunity to address the Sub-Committee.

Dr Bell state that following the discussion that had taken place during the hearing she felt more reassured following some of the clarifications concerning the proposals, however not so much concerning the clientele as they arrive following Goodwood events. The premises was situated in a quieter area of North Street where there was a mixture of residential houses and flats, lived in by working residents and the elderly, and located near the Harbour Hotel. She had been pleased to hear that Luckes had intended to open a restaurant but had some concerns with the proposals and the request to hold a licence until 01:00 hours. She was concerned with noise spillage into North Street and St Cyriacs at night and drew attention to the Rose court retirement development and elderly residents living in Regnum Court, which may be affected by the noise of clientele leaving and returning to their cars in St Cyriacs car park. She referred to the proposal to serve alcohol inside and outside. Noise in the street bounced off the old buildings in North Street, affecting residents. Concerns were raised about the potential for noise from the use of the front lawn area and noise from bottle recycling collections. Residents were often affected by noise from businesses in north Street, including Bar 41, the Chichester Harbour Hotel, deliveries to Lakeland, as well as people returning home having visited licensed premises in South Street. She welcomed the proposal to reduce the licensing hours.

Mr Bell, Ward Member for Chichester Central, referred to the implications of transferring a licence to another party. He noted the applicant's proposal to reduce the licensing hours. He was also concerned about noise from the spillage of customers leaving the premises. He referred to the location of representors map on page 17 of the agenda and drew attention to the close proximity of Regnum Court, Rose Court and The Providence residential developments to St Cyriacs car park. He was of the opinion that even with the hours amended to an earlier time of 12:00 hours to 12:30 hours spillage of customers could still be an issue. He mentioned that most of the representations received raised issues about public nuisance.

Mr Knowles-Ley explained that all parties had been able to make representations and it was for the Sub-Committee to determine that the four licensing objectives would be promoted by the applicant taking into account the representations of the responsible authorities and interested parties. With regards to customers leaving premises late at night, when complaints about noise were received discussions would take place with the licence holder to resolve the issues.

Responding to a question from Mr Bell, Mr Cotterill confirmed that he intended to align the closing times of the premises with those of purchases. The premises closing times would be set out in the venue hire contract.

Mr Bennett advised that there was the potential for a break clause that would enable the transfer of a premises licence. Case law stated that conditions could not supersede mandatory conditions.

Mrs Wake, on behalf of Mr Wake advised that she no longer wished to address the Sub-Committee.

Ms Luckes acknowledged that bottles emptied into bins created noise and confirmed that this would not be done at night times.

Mr Cotterill advised that with regard to his and Ms Luckes reputations, they were both local to Chichester with the business not owned by a corporate organisation. He was aware of noise issues concerning the emptying of bottles at the nearby Café Nero during certain hours. The number of electric vehicle taxis in use, which were quieter, was increasing. He agreed that car doors being slammed could cause noise issues but would be mitigated by heavily policing the leaving of customers.

Mr Bennett advised that the management of customers was not a matter for a condition.

Mr Thompson referred to the amount of mitigation suggested by the applicant. He remained of the opinion that the applicant should submit a noise impact assessment. If a premises licence was granted he suggested a condition should be in place requesting that a Noise Management plan should be submitted to the Environmental Protection Team for approval.

Mr Knowles-Ley made his closing statement. He explained that the Licensing Act 2003 and accompanying Regulations required that the Council, as the local Licensing Authority, undertake their required functions with a view to promoting the four Licensing objectives. He advised that in reaching their determination, the Sub-committee must have regard to Guidance issued by the Home Office in 2018 and the Council's current Statement of Licensing Policy 2022-2027; as well as all the oral and written evidence provided for this application and all relevant representations made. In particular he referred to paragraphs 2.9, 2.10, 2.11, 2.12, 2.13, 2.17 and 3.4 of the Council's Statement of Licensing Policy.

The members of the Sub-Committee then retired to discuss and make their decision, Mr Bennett 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 not received any additional advice during deliberations.

Resolved

The Sub-Committee decided to grant in accordance with the application subject to the following additional conditions

- 1) That a noise impact assessment management plan will be undertaken and appropriate improvement works carried out so as to ensure that sound is properly managed to the satisfaction of the licensing authority's appointed Environmental Health officer
- 2) That a noise limiter shall be secured to the satisfaction of licensing authority's appointed Environmental Health officer
- 3) That the Applicant will put in place a policy not to tip glass into external storage bins after 6pm until 6am (overnight).

- 4) Hours amended as revised by the applicant at the hearing to finish at 00:30 Monday to Saturday and at 23:30 on Sunday evening for supply of alcohol (J) and the premises to be open to the public half an hour later than the sale of alcohol (L) and Live Music (E) to cease at midnight Monday to Saturday and 2300 on Sunday.

The Committee having established the above conditions also wished to note the following

- 1) To encourage the continuing engagement with the community by the applicant shown at and before the hearing today.
- 2) To encourage environmental health officers to be satisfied as to noise conditions required prior to the hearing where possible.

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

The meeting ended at 11.45 am

CHAIRMAN

Date: