

Alcohol and Entertainment Licensing Sub-Committee

**Date and Time**

Thursday 13<sup>th</sup> June 2019 at 9.30am

Venue: Committee Room 2, East Pallant House, Chichester District Council, East Pallant,  
West Sussex, PO19 1TY

**Application for a VARIATION of an existing PREMISES LICENCE**

Woodies Brasserie & Bar  
10 St Pancras  
Chichester  
West Sussex  
PO19 7SJ

**1. RECOMMENDATIONS**

- 1.1 That the Sub-Committee consider and determine an application made by Woodies Chichester Ltd for variation to an existing Premises Licence.**
- 1.2 If the determination is to grant the variation, to give consideration as to whether it is appropriate to attach conditions to ensure the Licensing Objectives are met.**
- 1.3 The Sub-Committee is to give reasons for its decision.**

**2. REASONS FOR HEARING**

- 2.1 The Premises Licence variation application submitted by Woodies Chichester Ltd of Lone Pine, Bickley Park Road, Bromley, BR1 2BE has been the subject of 13 (thirteen) relevant representations, nine from members of the public (eight of which were from local residents living close to the application site) and four from Responsible Authorities under the Licensing Act 2003 (the 'Act') namely Sussex Police, Development Management (Planning), Environmental Protection (Environmental Health - noise pollution) and Health Protection Team (Environmental Health - health & safety/food safety). It is important to note that the representation submitted by Sussex Police has, in principle, been resolved during the mediation process subject to certain conditions being added to any Premises Licence granted.

**3. BACKGROUND**

Included in this report are the following attachments:

- 3.1 Copy of the Alcohol and Entertainment Licensing Sub-Committee Protocol and Procedure.
- 3.2 A plan depicting the local area and application site in relation to the representations received by the Licensing Authority. **(Attachment A)**.
- 3.3 A copy of the Premises Licence variation application (19/00546/LAPRE1). **(Attachment B)**
- 3.4 Copy of relevant representations and where applicable successful mediation. **(Attachment C)**
- 3.5 Copy of the current Premises Licence in effect for Woodies Brasserie & Bar (3815/19/00526/LAPRED) **(Attachment D)**

#### **4 SUMMARY OF THE PREMISES LICENCE VARIATION APPLICATION**

- 4.1 A copy of the application is reproduced in full at Attachment B.
- 4.2 Woodies Chichester Ltd, the applicant, submitted a valid application on 21<sup>st</sup> March 2019. As part of the application process statutory public notices were displayed at the premises during the representation period, which ran until 18<sup>th</sup> April 2019 and a suitable advert was published in the Chichester Post on 29<sup>th</sup> March 2019.
- 4.3 The nature of the proposed variation is described by the applicant as;

*“To run Woodies Chichester as a brasserie restaurant and bar with restaurant seating in rear, bar towards front of restaurant. Style of food modern European/brasserie to high quality combined with bar area run with responsibility in management to create community and pride to Woodies Chichester as a long standing institution in the city. Extension of hours of opening, extension of late night refreshment and sale of alcohol. Addition of recorded music and live music. Change of plan.”*

At Part 3 of the application form the applicant confirmed that it is their intention that the proposed variation was to have effect as soon as possible.

The applicant also identified certain conditions currently imposed on the existing Premises Licence which they believed could be removed as a consequence of the proposed variation. These were;

- *Annex 2, Condition 5: There shall be no vertical drinking at the premises, save for persons waiting for a table to become available to a maximum of eight (8) persons at any one time - vertical drinking to be permitted in boundaries set out in blue (bar area and patio area) on accompany drawing.*
- *Annex 2, Condition 6: The premises will operate as a restaurant and any promotions and advertising will refer to it as such.*
- *Annex 2, Condition 8: When internet / telephone sales are placed, age verification must be obtained before the sale takes place. Acceptable forms of identification must be checked on point of delivery.*

- *Annex 2, Condition 9: Alcohol sold for consumption off the premises will be in sealed containers and only as an ancillary to a take away meal. Remove “only as ancillary to a take away meal”*

4.4 The applicant is also seeking to regularise some internal changes to the layout of the premises, the works of which have already been completed.. This includes a new bar to the front of the premises and a slight layout amendment to the rear servery. In addition it is proposed by the applicant to now include within the boundary of the licensed premises an external area (patio) sited to the rear of the premises as illustrated on the plan submitted with the application.

4.5 The table below illustrates the standard days and timings being applied for and what is currently permitted under the existing Premises Licence.

	<b>Standard days, timings and non-standard timings</b>	
	<b>Proposed by Application</b>	<b>Current</b>
'Supply of alcohol' (for consumption 'on' and 'off' the premises)	<b>Sunday to Thursday</b> <b>10.00 – 23.45</b>  <b>Friday &amp; Saturday</b> <b>10.00 – 00.45</b>  <b>Non-Standard Timing or Seasonal variations</b> <b>New Year's Eve 10.00 – 00.45</b>	<b>Sunday to Thursday</b> <b>10.00 – 23.45</b>  <b>Friday &amp; Saturday</b> <b>10.00 – 00.15</b>  <b>No Non-Standard Timing or Seasonal variations</b>
Live Music (Indoors only)	<b>Friday &amp; Saturday</b> <b>21.00 – 00.00 (midnight)</b>  <b>Non-Standard Timing or Seasonal variations</b> <b>New Year's Eve 21.00 – 00.30</b>	<b>Not permitted</b>
Recorded Music (Indoors only)	<b>Sunday to Thursday</b> <b>10.00 – 00.00 (midnight)</b>  <b>Friday &amp; Saturday</b> <b>10.00 – 01.00</b>  <b>Non-Standard Timing or Seasonal variations</b> <b>New Year's Eve 10.00 – 01.00</b>	<b>Not permitted</b>

<p>Late night refreshment (Indoors only)</p>	<p><b>Sunday to Thursday 23.00 – 00.00 (midnight)</b></p> <p><b>Friday &amp; Saturday 23.00 – 01.00</b></p> <p><b>Non-Standard Timing or Seasonal variations New Year's Eve 23.00 – 01.00</b></p>	<p><b>Sunday to Thursday 23.00 – 00.00 (midnight)</b></p> <p><b>Friday &amp; Saturday 23.00 – 00.30</b></p> <p><b>No Non-Standard Timing or Seasonal variations</b></p>
<p>Hours premises are open to the public</p>	<p><b>Sunday to Thursday 10.00 – 00.00 (midnight)</b></p> <p><b>Friday &amp; Saturday 10.00 – 01.00</b></p> <p><b>Non-Standard Timing or Seasonal variations New Year's Eve 10.00 – 01.00</b></p>	<p><b>Monday to Thursday 10.00 – 00.00 (midnight)</b></p> <p><b>Friday &amp; Saturday 10.00 – 00.30</b></p> <p><b>No Non-Standard Timing or Seasonal variations</b></p>

4.6 The applicant provided limited additional information in their Operating Schedule as to how they intended to promote all four of the Licensing Objectives as a result of the application (shown at Attachment B). Where appropriate these suggested steps would be translated into conditions if the variation application is successful. The applicant's proposals included, amongst other things, such matters as:

- Training for all staff
- SIA door staff on Friday and Saturday evenings and other events (if needed)
- Management will monitor and take sufficient action to ensure public safety
- Manage and maintain good relationship with neighbours to premises
- Follow current licensing laws to protect children from harm (as set out in current licence conditions)

4.7 Mr Joshua Wright was the named Designated Premises Supervisor (DPS) on the existing Premises Licence at the time of the variation application being submitted. However, Mr Wright ceased acting as the DPS at the premises at the end of the 30 May 2019 and a new DPS has since been nominated by the Premises Licence holder.

## **5 THE PROCESS AND PROMOTION OF LICENSING OBJECTIVES**

5.1 The legislation provides clear focus on the promotion of four licensing objectives which must be addressed when licensing functions are undertaken. The licensing objectives are:

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

5.2 In carrying out its licensing functions, the Licensing Authority must also have regard to its current Statement of Licensing Policy 2016 – 2021 and Guidance published by the Home Office (April 2018) along with the relevant matters raised in the representation(s).

## **6 RELEVANT REPRESENTATION(S)**

6.1 A representation is “relevant” if it relates to the likely effect of the grant of the Licence on the promotion of at least one or more of the licensing objectives. The 13 representations received in respect of this application and where applicable, the outcome of successful mediation, are reproduced in full at Attachment C.

6.2 The key points extracted from a number of the representations in opposition to the application from residents living close by to the application site are summarised below along with a reference to the relevant licensing objective:

*“.....a licensing extension to Woodies new restaurant on Friday and Saturday nights to midnight or beyond would cause a great deal of disturbance to all of us particularly as they have a courtyard overlooking the car park. **(The prevention of public nuisance)***

*“An extension to Woodies licence to include live or amplified music in a residential area is unacceptable.....” **(The prevention of public nuisance)***

*“I wish to add that this is now a predominantly residential area and the extension applied for by the licensee is incompatible with this. An increase in noise disturbance is already noticeable with the recent re-opening of 'Woodies' as at the 23rd March. Music was audible from the premises on Saturday, after midnight, due to people leaving and returning through the rear, or car park, exit. The noise and disturbance associated with this will only increase as the weather improves **(The prevention of public nuisance)***

*“There is the issue of potential disorder, as a result of people who may have too much to drink and can easily access the decking right in front of our flats. And some residents have to get early nights”. **(The prevention of public nuisance)***

*“.....my house is approx. 3m away. We would expect the condition to clear the patio of both customers and staff at 22.00 to be maintained in the licence (as per the original Woodies licence), and any music noise to be contained within the premises.” **(The prevention of public nuisance)***

*“....on behalf of the Eastgate Development Residents' Association, with members on New Park Road, Richmond House, Keats Way and Lower Walls Walk.....an increase in noise level has been noted beyond the original licencing hours, both in terms of external "vertical drinking" on the patio and vehicular traffic in the car park. Both are incompatible with the right to undisturbed use and enjoyment of the residents' property.” **(The prevention of public nuisance)***

*“.....Even if internal noise is kept to a minimum, customers do not leave quietly and many of them leave via the car park below residents bedrooms. The later this is allowed, the worse it is for us.” **(The prevention of public nuisance)***

- 6.3 As previously stated four Responsible Authorities submitted relevant representations in opposition to the application, namely Sussex Police, Development Management (Planning), Environmental Protection (Environmental Health - noise pollution) and Health Protection Team (Environmental Health - health & safety/food safety) and these are reproduced in full at Attachment C.
- 6.4 All those that made relevant representation(s) to the application were sent the Notice of Hearing, along with the applicant and/or their representative, inviting them to attend or nominate another person to address the Sub-Committee on their behalf.

## **7 CONSIDERATION**

- 7.1 In reaching its determination the Sub-Committee must take into consideration the four Licensing Objectives, the Council's Statement of Licensing Policy, the current Home Office Guidance and written and/or oral evidence during the hearing
- 7.2 It is very important to note that these are the only matters to be addressed by the Licensing Authority when considering this application. The Licensing Objectives are the only grounds on which representations can be made, and the only grounds on which the Licensing Authority will be able to refuse an application or impose appropriate conditions in addition to mandatory conditions and those proposed by the applicant in their Operating Schedule.
- 7.3 Human Rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol and articles 6 and 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property (holding a licence would be considered a possession). Article 8 relates to the right to respect for private and family life, home and correspondence. Article 6 relates to the right to a fair trial. These are however qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done: -
- Has its basis in law;
  - Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim,
  - Is proportionate to the aims being pursued; and,
  - Is related to the prevention of crime or, the protection of public order or health or the protection of the rights and freedoms of others.
- 7.4 The Sub-Committee must consider each application on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 7.5 All applications before the Sub-Committee must be considered against the backdrop of anti-discriminatory legislation, such as the Race Relations Act 1976 as amended 2000, and the Sex Discrimination Act 1975, and also in accordance with the Council's stated policy on Equal Opportunities.
- 7.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the

need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from Persons and the Responsible Authorities.

7.7 The Sub-Committee are required to give reasons for their decision.

## **8. OPTIONS OPEN TO THE SUB-COMMITTEE**

8.1 When considering this application the following options are available to the Sub-Committee:

- a. To grant the Premises Licence variation, as applied for,
- b. To grant the Premises Licence variation as applied for, with additional conditions appropriate to the promotion of the specific Licensing Objectives on which relevant representations have been received,
- c. Reject the whole or part of the Premises Licence variation application.

8.2 The Sub-Committee may also:

- d. Grant the Premises Licence variation but exclude certain licensable activities from the licence,
- e. Grant different conditions to different parts of the premises or to different Licensable Activities.

## **9 BACKGROUND PAPERS**

Licensing Act 2003

Home Office Guidance issued under section 182 of the Licensing Act 2003 (April 2018)

Chichester District Council's Statement of Licensing Policy 2016 - 2021

## **10 ATTACHMENTS**

<b>Attachment A:</b>	Plan of the local area and application site
<b>Attachment B:</b>	A copy of the Premises Licence application (19/00546/LAPRE1)
<b>Attachment C:</b>	Copy of original relevant representations and where applicable mediation
<b>Attachment D:</b>	Copy of the current Premises Licence (19/00526/LAPRED)
<b>Contact:</b>	Mr L Foord Divisional Manager Communications, Licensing & Events <a href="mailto:lfoord@chichester.gov.uk">lfoord@chichester.gov.uk</a> 01243 534742