

Licensing Authority, Chichester District Council, East Pallant House,
East Pallant, Chichester, West Sussex, PO19 1TY

Alcohol and Entertainment Licensing Sub-committee

Date & Time: Thursday 13th May 2021 at 09:30

Venue: Online via 'Zoom' platform

Application for VARIATION OF A PREMISES LICENCE
(Application Number - 21/00209/LAPRE1)

East Walls Hotel, 3 East Row, Chichester, West Sussex, PO19 1PD

1. RECOMMENDATIONS

- 1.1 That the sub-committee consider and determine an application made by East Walls Hotel Ltd seeking to vary an existing Premises Licence.**
- 1.2 If the determination is to grant the Premises Licence variation, to give consideration as to whether it is appropriate to attach conditions to ensure the statutory licensing objectives are promoted.**
- 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 East Walls Hotel Ltd of 3 East Row, Chichester, West Sussex, PO19 1PD has been the subject of 6 (six) relevant representations, all in opposition to the application. Of the representations received, 5 are from local residents with the remaining representation from Sussex Police.**

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 application site and local area in relation to the representations received by the Licensing Authority (**Attachment A**).**
- 3.3 Copy of the complete Premises Licence variation application (**Attachment B**).**
- 3.4 Copy of all relevant representations (**Attachment C**).**

- 3.5 Copy of the existing Premises Licence (No. 3815/21/00036/LAPRED) granted in respect of the premises (**Attachment D**).

4 SUMMARY OF THE PREMISES LICENCE VARIATION APPLICATION

- 4.1 A copy of the complete application is reproduced in full at Attachment B.
- 4.2 Mrs Iris Kelly as the sole Director of East Walls Hotel Ltd submitted a valid application on 8th March 2021. As part of the application process, statutory public notices were displayed by the applicant at the application site during the representation period; this ran between 11th March 2021 and 8th April 2021 inclusive. In addition, a copy of the public notice was also published in the Chichester Observer on Thursday 18th March 2021.
- 4.3 The applicant states the following within the application form which provides a general description of the premises:

‘12 Bedroom Boutique Hotel over three floors with dining facilities and bar. Restaurant has 20 seats and bar area has five seats.’

- 4.4 The application seeks to vary the existing Premises Licence as follows:

- (a) To amend Condition 2 of Annex 2 as follows:

Current:

‘Alcohol may only be sold and/or served to non-guests and non-residents between the hours of 11:00 and 18:00’.

Proposed:

‘Alcohol may only be sold and/or served to non-guests and non-residents between the hours of 11:00 and 23:00’.

- 4.5 As a result of submitting the proposed variation, the applicant has outlined within Section M of the application form a number of steps it intends to take in order to promote the four licensing objectives. Ordinarily these steps would be translated into conditions attached to any licence granted. Much of what has been stated at Section M relates to matters already featuring as conditions attached to the current Premises Licence. However, the applicant has stated that *‘Alcohol will only be served to those with restaurant reservations.’* This would mean that beyond the existing hour of 18:00, that non-guests and non-residents would only be sold/supplied with alcohol where it was associated with a restaurant reservation.

5 THE PROCESS AND PROMOTION OF LICENSING OBJECTIVES

- 5.1 The legislation provides a clear focus on the promotion of four licensing objectives which must be addressed when licensing functions are undertaken. Each objective is of equal importance. 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, this Licensing Authority must also have regard to its current Statement of Licensing Policy 2020-2022, statutory guidance published by the Home Office (April 2018) along with relevant matters raised in any representation(s).

6 RELEVANT REPRESENTATION(S)

- 6.1 A representation is “relevant” if it relates to the likely effect of the grant of a licence on the promotion of at least one or more of the licensing objectives. Representations can be in opposition and/or support of an application. As stated at paragraph 2.1 above, the application attracted 6 (six) relevant representations, all of which are in opposition. All representations are reproduced in full at Attachment C.
- 6.2 As outlined at paragraph 2.1, representations were received from members of the public along with Sussex Police as a Responsible Authority under the Licensing Act 2003.
- 6.3 Whilst all representations have been reproduced at Attachment C, extracts from a selection of the representations submitted by local residents in opposition to the application are summarised below along with a reference to the relevant licensing objective(s):

The Prevention of Public Nuisance

“We have a very particular concern about noise. The quadrant where the hotel is situated is a quiet residential neighbourhood – and no one wants the busy noise of a commercial establishment after 1800, other than one that caters specifically for the hotel’s guests – which seems a reasonable position/compromise (as a resident).”

“The other particular concern is whether drinks are licensed for OUTDOORS. Clearly noise can be contained if the tables/consumption is indoors. If outdoors after 1800 that becomes a real problem as noise really does carry - and, in a quiet evening in this neighbourhood it carries a long way.”

“If (the hotel) they are to expand their services and are relying on the garden to provide their main space for serving food and alcohol, this could be very noisy for local residents.”

“The additional condition suggested by the police is inadequate. It does not specify that that non-guests and non-residents have to be seated at tables within the hotel building. There would need to be a new condition which clearly avoids the potential for excess noise from the garden of the hotel after 18.00 hours. Without an adequate additional condition, I therefore continue to object to the sale of alcohol to non-guests and non-residents after 1800 hours.”

“.....Please, please adhere to the status quo and help us to maintain this lovely and peaceful residential area of our city.”

The Prevention of Crime & Disorder

“The deviation of the current licence which will be updated to include members of the public to buy and consume alcohol along with a dinner reservation seems quite logical to me. I cannot see how a restaurant could operate in any other way. As a direct neighbour with shared wall I would expect the landlord to monitor any excessive noise if guests are in the garden area.”

7. MEDIATION

- 7.1 Whilst Sussex Police determined to submit a representation in respect of the application, discussions were held between the applicant and Sussex Police regarding their concerns. The outcome of these discussions was that the applicant agreed to the following condition should it be proposed to grant this variation application. This condition would in effect replace that referred to at paragraph 4.5 above:

‘Between the hours of 18:00 and 23:00 alcohol may only be supplied to non-guests and non-residents with a restaurant reservation and seated at tables, with the supply of alcohol ancillary to a table meal only.’

- 7.2 At the end of the representation period, the applicant was made aware of the number and nature of outstanding representations. Having considered their content, the applicant consequently offered as a compromise to close the terrace to non-residents at 22:00.
- 7.3 Following receipt of the proposed mediation, this Licensing Authority made all parties (those who had submitted a relevant representation) aware via email of the proposed change offered by the applicant (**Attachment E**). Written confirmation was requested from all representors asking that once they had considered the mediation being offered, that they respond confirming whether in principle they would be prepared to withdraw their representation, or not, on the basis of the mediation being offered. No responses were subsequently received from representors and therefore, no parties indicated that they would be prepared to withdraw their representation.
- 7.4 In view of five representations remaining unresolved following unsuccessful mediation, it was necessary to convene a formal hearing.
- 7.5 All parties were sent the statutory Notice of Hearing as was the applicant and/or their representative. The Notice invited the various parties to attend the hearing and specifically asked whether they wished to be represented at the hearing.

8 CONSIDERATION

- 8.1 In reaching its determination, the Sub-Committee must take into consideration the promotion of the four statutory licensing objectives, the Council’s Statement of Licensing Policy, the current Home Office Guidance along with written and/or oral evidence during the hearing.
- 8.2 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.

- 8.3 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.
- 8.4 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.
- 8.5 All applications before the Sub-Committee must be considered against the backdrop of anti-discriminatory legislation including the Equality Act 2010 and in accordance with the Council's current Equality Strategy.
- 8.6 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 Responsible Authorities and any other person(s).
- 8.7 The Sub-Committee are required to give reasons for their decision.

9. OPTIONS OPEN TO THE SUB-COMMITTEE

- 9.1 When considering this application the following options are available to the Sub-Committee:
- (a) Grant the Premises Licence variation as applied for;
 - (b) Grant the Premises Licence variation as applied for along with any additional conditions considered appropriate to promote one or more of the licensing objectives on which relevant representations have been received. This may include attaching different conditions to different parts of the premises or to different licensable activities.
 - (c) Grant the Premises Licence variation but reduce the hours being sought during which the licensable activities may take place; or
 - (d) Reject the whole or part of the Premises Licence variation application.

10 **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 2020-2022

11 **ATTACHMENTS**

Attachment A: A plan depicting the application site and local area in relation to the representations received by the Licensing Authority.

Attachment B: Copy of the complete Premises Licence variation application.

Attachment C: Copy of all relevant representations.

Attachment D: Copy of current Premises Licence No. 3815/21/00036/LAPRED

Attachment E: Correspondence sent by the Licensing Authority to all representors summarising proposed change to application.

Contact: Mr L Foord
Divisional Manager
Licensing Team
lfoord@chichester.gov.uk
01243 534742