

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

Alcohol and Entertainment Licensing Sub-committee

Date & Time: Friday 1 October 2021 at 09:30am

Venue: Online via 'Zoom' platform

**Application for a PREMISES LICENCE
(Application N° 21/00939/LAPRE)**

RED H
11 North Street
Midhurst
West Sussex
GU29 9DH

1. RECOMMENDATIONS

- 1.1 That the sub-committee consider and determine an application made by REDH Limited for a Premises Licence.**
- 1.2 If the determination is to grant a Premises Licence, 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 application submitted by REDH Limited of Unit 2, Station Road Industrial Estate, Station Road, Liphook, GU30 7DR (Registered Business Number 11081482) has been the subject of 13 relevant representations, all in opposition to the application. Of the representations received, 11 were from members of the public and two were received from Responsible Authorities under the Licensing Act 2003 namely, Sussex Police and the Environmental Protection Team at Chichester District Council.**

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 application (**Attachment B**).
- 3.4 Copy of all relevant representations (**Attachment C**).
- 3.5 Copy of mediation (**Attachment D**).

4 SUMMARY OF THE PREMISES LICENCE APPLICATION

- 4.1 A copy of the complete application is reproduced in full at Attachment B.
- 4.2 REDH Limited submitted a valid application on 13 July 2021. As part of the application process, statutory public notices were displayed by the applicant at the application site during the representation period which ran between 13 July and 10 August 2021. In addition, a copy of the statutory public notice was duly displayed and published in the local newspaper.
- 4.3 The applicant states the following within the application form which provides a general description of the site and intended use:

‘Restaurant/bar with attendant shop selling alcohol’
- 4.4 The application seeks a permanent Premises Licence for the licensable activities of the provision of late night refreshment and the retail sale of alcohol being authorised to take place at the premises.
- 4.5 The table below states the standard days and timings that the original application sought for the retail sale of alcohol, provision of late night refreshment and opening hours. However following successful mediation, in principle, amended hours now being applied for are those shown in the right hand column:

Licensable activities	Hours proposed by the applicant within the initial application	Hours now proposed by the applicant as a result of mediation
Retail sale of alcohol (<i>for consumption on & off the premises</i>)	Every Day 08:30 – 00:30	Every Day 08:30 – 00:30 (Provision of this activity to cease outdoors at 23:00)
Late night refreshment (indoors)	Every Day 23:00 – 00:30	Every Day 23:00 – 00:30

Hours premises are open to the public	Every Day 08:30 – 00:30	Every Day 08:30 – 00:30 (External area to close to customers at 23:30)
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- 4.6 The applicant provided additional information at Section M of the application form as to the steps they intend to take to promote all four of the licensing objectives, if a Premises Licence is granted. The application form is included at Attachment B.
- 4.7 REDH Limited nominated Douglas Howard, who consented to the role, as the proposed Designated Premises Supervisor (DPS) should a Premises Licence be granted. Mr Howard holds a current Personal Licence granted by East Hampshire District Council (Personal Licence Number: PA0198). Having liaised with East Hampshire District Council there are no reported incidents known to this Licensing Authority associated with Mr Howard.

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, the 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 13 relevant representations, all of which are in opposition. All representations are reproduced in full at Attachment C.

6.2 Whilst the various representations make reference to a number of matters, it is evident that the main areas of concern particularly relate to the likely effect on the promotion of ‘The prevention of Public Nuisance’ and ‘The prevention of Crime and Disorder’ licensing objectives should the application be granted as originally applied.

6.3 All parties that submitted a relevant representation to the application 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.

7 MEDIATION

- 7.1 Whilst the council's Environmental Protection Team and Sussex Police determined to submit a representation in respect of the application, discussions have been held between the applicant and both Responsible Authorities. The applicant subsequently agreed to several conditions and revisions proposed by Sussex Police, all of which are shown in full at **Attachment D**. They have also offered to reduce the hours that the external areas are open to the public and cease the retail sale of alcohol outdoors at 23:00 as a result of the Environmental Protection Team representation. As a result of the successful mediation, both Responsible Authorities were prepared in principle to withdraw their representations should it have been possible to grant a licence.
- 7.2 Following an agreement in principle being reached between the Responsible Authorities and the applicant, this Licensing Authority subsequently wrote to all other representors on 27 August 2021 detailing the outcome of mediation. They were asked whether they too in principle would be prepared to withdraw their representation giving until 6 September for a response. We received two responses from representors one of which was prepared to withdraw their representation and the other was not. These responses are shown at **Attachment D**.

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 as applied for;
 - (b) Grant the Premises Licence 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.
 - (c) Grant the Premises Licence but exclude certain licensable activities from the licence or reduce the hours being sought during which the licensable activities may take place; or
 - (d) Reject the whole or part of the Premises Licence 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
- Officers report and supporting papers to the Hearing

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 application.

Attachment C: Copy of all relevant representations.

Attachment D: Copy of outcome of mediation.

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