

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

Alcohol and Entertainment Licensing Sub-committee

Date & Time: Wednesday 24 November 2021 at 2:30pm

Venue: Online via 'Zoom' platform

**Application for a PREMISES LICENCE
(Application N° 21/00501/LAPRE)**

Dartagnan
39 North Street
Chichester
West Sussex
PO19 1LX

1. RECOMMENDATIONS

- 1.1 That the sub-committee consider and determine an application made by Mr Matthew Horstead 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 Mr Matthew Horstead of 46 Maplehurst Road, Chichester, West Sussex, PO19 6RP has been the subject of five relevant representations, all in opposition to the application. Of the representations received, one was received from Sussex Police in their role as a Responsible Authority under the Licensing Act 2003, with the remainder submitted by Cllr Martyn Bell, Chichester Central Ward Member at Chichester District Council, along with three local residents.

3. BACKGROUND

Included in this report are the following attachments:

- 3.1** Copy of the Alcohol and Entertainment Licensing Sub-Committee Protocol.

- 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 Mr Matthew Horstead submitted a valid application on 30th September 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 30th September and 28th October 2021. In addition, a copy of the statutory public notice was duly published in the Chichester Observer on 14th October 2021.
- 4.3 The applicant states the following within the application form which provides a general description of the site and intended use:

‘Clothing retail for men split over 3 floors, 2 for retail and 1 for office/storage. A small bar area for customers to sit and enjoy a drink whilst shopping.’

- 4.4 The application seeks a permanent Premises Licence for the one licensable activity of the retail sale of alcohol for consumption on the premises. The application does not seek any external areas associated with this licensable activity. All sales, and the consumption of alcohol, are to take place indoors only.
- 4.5 The table below states the standard days and timings that the application seeks for the retail sale of alcohol:

| Licensable activities | Hours |
|--|--|
| Retail sale of alcohol (<i>for consumption on the premises only</i>) | <p>Monday – Saturday 10:00 – 20:00</p> <p>Sunday – 11:00 – 16:00</p> |

- 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 The proposed Designated Premises Supervisor (DPS) is Mr Matthew Horstead, however he does not currently hold a Personal Licence. It is therefore proposed that should a Premises Licence be granted, that Mr Horstead will submit a further application to nominate the shop manager, Rachel Chidwick, as the DPS.
- 4.8 It is important to highlight that if granted, the retail sale of alcohol could not take place until such time as there is a named DPS on the Premises Licence.

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 five 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 The representation submitted by Sussex Police (shown at Attachment C) has been the subject of subsequent discussion between the two parties. A number of conditions deemed necessary to promote the four licensing objectives were proposed by Sussex Police and these have been agreed and accepted by the applicant. Sussex Police have confirmed that their concerns are addressed subject to the agreed conditions being attached to any granted licence.

7.2 In light of the outstanding representations made Mr Horstead has provided a written response to the various issues that have been raised. A copy of this communication has been circulated to all representors on 16th November 2021, although at the time of preparing this report, the only representation in principle to have been withdrawn is that of Sussex Police. All mediation is included 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 is 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.

Attachment B: Copy of the complete Premises Licence application.

Attachment C: Copy of all relevant representations.

Attachment D: Copy of outcome of mediation. May need to include if further mediation (7.2 above) has taken place

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