

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

Alcohol and Entertainment Licensing Sub-committee

Date & Time: Monday 19th September 2022 at 09:30

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

**Application for a PREMISES LICENCE
(Application Number – 22/01401/LAPRE)**

Luckes At No 40
40 North Street
Chichester
West Sussex
PO19 1LX

1. RECOMMENDATIONS

- 1.1 That the sub-committee consider and determine an application made by Luckes Ltd 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 Luckes Ltd of 69 North Street, Chichester, West Sussex, PO19 1LP (Company Number 10163604) has been the subject of ten relevant representations, all in opposition to the application. Of the representations received, eight were from members of the public with the two remaining representations received from Sussex Police and the Environmental Protection Team in their statutory roles as Responsible Authorities under the Licensing Act 2003.

3. BACKGROUND

Included in this report are the following attachments:

- 3.1 Copy of the Alcohol and Entertainment Licensing Sub-Committee – Protocol.
- 3.2 Plans 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 successful mediation between the applicant and Sussex Police and unsuccessful mediation with Environmental Protection Team (**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 Luckes Ltd submitted a valid application on 28th July 2022. 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 28th July 2022 and 25th August 2022 inclusive. In addition, a copy of the statutory public notice was published in the Chichester Observer on 4th August 2022.
- 4.3 The following are a selection of extracts taken from the application form in which the applicant provides a general description of the site and intended use:

‘Georgian town house set back from the road. The premises consists of a front garden, a basement, ground, first and second floor’.

‘Luckes at No.40 will be a high-quality Brasserie serving the very best seasonal and local ingredients....’.

‘At Luckes at No.40 we will offer top quality wines, spirits, cocktails and craft beers as well as an extensive menu of non-alcoholic, frit and herb based drinks.’

‘We will also facilitate private functions such as weddings, wakes and events’.

- 4.4 The application seeks a permanent Premises Licence, with a variety of licensable activities being sought, this includes regulated entertainment in the form of both live and recorded music, along with the provision of late night refreshment and the retail sale of alcohol for consumption both on and off of the premises.
- 4.5 The table below specifies the standard and non-standard days and times for each of the forms of licensable activity being sought, along with the associated opening hours:

Licensable Activity	Hours proposed by the applicant within the application	Location
Live Music	Every Day - 23:00 - 01:00 New Year’s Eve - 23:00 - 04:00	Indoors only
Recorded Music	Every Day - 23:00 - 01:00 New Year’s Eve - 23:00 - 04:00	Indoors only

Late Night Refreshment	Every Day - 23:00 - 01:00 New Year's Eve - 23:00 - 04:00	Indoors Only
Supply of Alcohol (for consumption both on and off the premises)	Every Day - 09:00 - 01:00 New Year's Eve - 09:00 - 04:00	Indoors and Outdoors
Hours premises are open to the public	Every Day 08:00 – 01:30 New Year's Eve - 08:00 - 04:30	N/A

4.6 The applicant has provided information within Box M of the application form stating the steps that they intend to take to promote all four of the licensing objectives; the application form is included at Attachment B. Following receipt of the representation submitted by Sussex Police, the applicant subsequently agreed in principle to an additional condition being included should it have been possible to proceed to grant a Premises Licence. The agreement in principle between Sussex Police with respect to the additional condition is shown at Attachment D.

4.7 In view of the retail sale of alcohol being applied for as a licensable activity, Luckes Ltd have nominated Ms Melanie Ann Luckes as the proposed Designated Premises Supervisor (DPS). Ms Luckes holds a current Personal Licence (No. 3815/21/01654/LAPER) granted by this Licensing Authority and there are currently no reported incidents known to this Licensing Authority associated with Ms Luckes.

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 2022-2027, 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 ten 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 eight members of the public along with Sussex Police and the Environmental Protection Team as Responsible Authorities.

6.3 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 Public Nuisance and Protection of Children from Harm licensing objectives should the application be granted as originally applied.

7 MEDIATION

7.1 Whilst Sussex Police determined to submit a representation in respect of the application, discussions have been held between the applicant and Sussex Police during the representation period. The applicant subsequently agreed to an additional condition proposed by Sussex Police and consequently they were in principle prepared to withdraw their representation should it have been possible to grant a Premises Licence at the end of the representation period. The successful mediation is shown in full at Attachment D, however for ease the following is the condition that has been agreed:

'The Premises Licence Holder shall ensure that all staff members (including family members and friends) engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:

- *the lawful selling of age restricted products*
- *refusing the sale of alcohol to a person who is drunk*

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed six months, with the date and time of the verbal reinforcement/refresher training documented.

All such training undertaken by staff members shall be fully documented and recorded and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request.'

7.2 With respect to the Environmental Protection Team representation, discussions have been had between the applicant and the Environmental Protection Team. However, whilst the applicant has offered several additional conditions, it has unfortunately not been possible to reach an agreed position and consequently the concerns and representation remain. The mediation between the two parties is shown at Attachment D and includes the conditions that have been offered by the applicant.

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 (as amended)
- Home Office Guidance issued under section 182 of the Licensing Act 2003 (April 2018)
- Chichester District Council's Statement of Licensing Policy 2022-2027

11 ATTACHMENTS

Attachment A: Plans 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 all mediation.

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