



Lewes District Council

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Licensing Sub-Committee

Minutes of a meeting of the **Licensing Sub-Committee** held in the **Warren Room, Lewes House, 32 High Street, Lewes** on **Tuesday, 24 August 2010** at 10.00am.

Present:

Councillors I J White (Chair on election), J F Daly and D H Mitchell

Officers Present:

Mr G Clark, Licensing Officer
Ms Z Downton, Committee Officer
Mr R Harris, Senior Legal Assistant
Mr I Kedge, Head of Environmental Health
Ms L Lacon, Communications Manager
Ms S Lindsey, Assistant Licensing Officer
Mr R Seepersad, Student Environmental Health Officer
Mr S Teale, Senior Environmental Health Technician

Applicant Attending:

Mr S Porter, Applicant
Ms E Rowling, Representative for Applicant

Representor Attending:

Ms E Raftery

In Attendance:

Councillor A T Jones
Mr A Still, Senior Environmental Health Officer

	Minutes	Action
1	Election of Chair of the Sub-Committee <u>Resolved:</u> 1.1 That Councillor White be elected as Chair for this meeting.	
2	Application for a Premises Licence for Chestertons, 1 High Street, Ditchling Those attending the hearing introduced themselves and the Chair read out the procedure under the Licensing Act 2003 to all parties present.	

The Sub-Committee considered Report No 177/10 to determine the Application for a Premises Licence at Chestertons, 1 High Street, Ditchling.

The Licensing Officer presented the Report to the Sub-Committee.

It was noted that the premises had since been renamed as 'The General'.

The Application related specifically to:

- The supply of alcohol on and off the premises from Monday to Sunday between 8am to 11pm and on New Year's Eve from 8am to 2am (the following day).
- The supply of late night refreshments on New Year's Eve from 11pm to 2am (the following day).
- Opening hours to the public from Monday to Sunday between 8am to 11pm and on New Year's Eve from 8am to 2am (the following day).

The Applicants had offered conditions to promote the four licensing objectives including operating under café bar conditions whereby customers would be served alcohol seated at tables by waiter/waitress service and food would always be available throughout the trading hours. Further details of the conditions were set out in paragraph 1.5 of the Report.

As a result of recommendations by the Council's Environmental Health Department and to support the licensing objective relating to the prevention of public nuisance, some additional conditions had been accepted by the Applicant, details of which were set out in paragraph 1.6 of the Report.

Chestertons (to be known as The General) was a food-led retail outlet that currently had a premises licence for the sale of alcohol originally granted under the old Licensing Act and subsequently converted to the Licensing Act 2003 in September 2005. It was permitted to sell and supply alcohol for consumption off the premises from Monday to Saturday between 8am to 11pm and Sunday from 12 noon to 10.30pm. The plans as approved under the licence related to the ground floor area and outside patio area.

The Applicants had applied for a new premises licence for the ground floor and first floor retail area of the premises to allow them to supply alcohol for consumption on the premises to customers seated at tables by waiter/waitress service and to thereby enhance and compliment their current trading provision of a combined café and delicatessen shop. There would be no bar or vertical drinking and substantial food would be available throughout the trading hours. The hours on the first floor would be restricted to 9am to 6pm, Monday to Saturday, and 10am to 6pm on Sundays in accordance with the current planning consent for that floor. It was noted that an application to allow the sale of food and drink for consumption on the ground floor was currently being considered and a decision was expected at the Planning Applications Committee meeting on 22 September

2010.

The premises was situated at the crossroads in the centre of the village along with a few other retail outlets in that area including two traditional public houses, The Bull Hotel and The White Horse, and a restaurant called Dolly's Pantry. These premises were all licensed for the sale and supply of alcohol and their latest closing times varied from 12am in the case of Dolly's Pantry until 2am for the White Horse Inn.

The Licensing Officer commented that no representations had been received from the responsible authorities, other than the additional conditions recommended by Environmental Health which had been accepted by the Applicants as detailed in paragraph 1.6, and a memorandum from the Planning Department as set out at Appendix 1 of the Report.

11 residents had made valid and accepted representations against the Application and their letters were set out at Appendix 2 of the Report. It was noted that two further representations had been accepted prior to the hearing. The Licensing Officer tabled the documentation relating to the additional representations for the Sub-Committee to consider, a copy of which is contained in the Minute Book.

13 representations were received in support of the Application from residents and businesses. Details of those were set out at Appendix 3 of the Report.

With regards to National Guidance, the Council was able to tailor its own conditions or draw from the model conditions in the National Guidance that had been issued under section 182 of the Licensing Act 2003. The important sections under Annex D were conditions under Part 1 which related to crime and disorder, Part 2 which related to public safety and Part 4 which related to the prevention of public nuisance.

Plans and photos of the premises were included at pages 80 – 85. The Applicants had submitted a supporting statement which was set out at Appendix 4 of the Report.

The Sub-Committee expressed its thanks to the Licensing Officer for providing a comprehensive Report.

In response to a query from the Sub-Committee, the Applicant clarified that under paragraph 4.4 of the Report, the phrase '*tables or equivalent*' did not refer to stalls, a bar or vertical drinking but to areas on the premises such as coffee tables where alcoholic beverages could also be served with food to seated customers.

Mr Porter explained to the Sub-Committee that the premises offered a mixed retail and café culture. The purpose of the Application would be to enhance and further that business by offering a food and drink table service policy to customers and to promote the uniqueness of the business, for

example, by offering champagne breakfasts.

Ms Rowling, a long standing resident and supporter of the Application who was assisting Mr Porter in the presentation of his case, stated that at one time the village had several licensed premises. She felt that, with a growing population and as Ditchling was now part of the South Downs National Park, the village would need to cater for the increased number of residents and visitors. Ms Rowling added that she failed to understand the objections relating to the threat to public order given that the Police had not objected to the Application.

The Senior Legal Assistant drew attention to several issues which were set out in the licensing conditions and suggested that some of those conditions might not be enforceable in their current form due to their ambiguousness. He therefore suggested some changes be made to the text of some conditions and recommended the deletion of others that were already covered by existing legislation, further details of which are set out in the decision of the Sub-Committee at Resolution 2.1.

Ms Raftery read out a joint statement on behalf of Mr Dominic Worrall and Mrs Vanessa Worrall who had made a representation against the Application. Several issues were raised concerning the Application and a copy of the statement is contained in the Minute Book.

The Sub-Committee adjourned briefly to give the Applicant time to read and consider the issues raised in the joint statement from Mr and Mrs Worrall. On its return, the Chair invited the Applicant to respond to the joint statement by directing any questions that he had about it to Ms Raftery. Mr Porter asked a number of questions that Ms Raftery was unable to answer because of her limited knowledge of the matters raised in the joint statement. Mr Porter stated that the objection that the outside courtyard area would be in use until 11pm was unsupported as there would be restrictions under the proposed conditions. He also confirmed that he had received no correspondence from the authorities relating to any issues stemming from the use of the garden within the last four years under the current licence.

Mr Porter added that he felt that the reference to the 'flying freehold arrangement' in the statement from Mr and Mrs Worrall was inconsequential to the Application and would not have an impact on the premises.

He confirmed that the operating hours on the first floor of the premises would remain the same under the proposed conditions and the potential to use that area as a meeting or function room would benefit the business and villagers.

Mr Porter concluded that he would be more than happy to work alongside the Council and other authorities to ensure the regulations and conditions of the licence were adhered to.

The Sub-Committee withdrew to consider the Application. The decision was delivered as follows:

Resolved:

2.1 “Having had regard to the terms of the application and all of the relevant evidence that has been put before us today, we have decided to deal with this application by granting it subject to the following amendments to the conditions offered by the Applicant. These amendments are required to make the wording of those conditions clear and unambiguous

The condition relating to the Prevention of Crime and Disorder will therefore be amended so that it reads as follows:-

‘Meeting and personally greeting each customer to ensure that they are welcomed, seated and served responsibly.’

The Public Safety conditions will be deleted in their entirety. This is because the matters referred to in these conditions are covered by other legislation.

The condition relating to Public Nuisance will be amended to read as follows:-

‘The premises licence holder and staff within the premises shall comply with any direction received from the Council’s Environmental Health Department which is designed to ensure that noise or vibration from the premises does not cause a public nuisance.’

The reason for our decision is that we are of the view that there is insufficient evidence to satisfy us of the need to amend or impose further conditions other than those proposed by the Applicant or to refuse the application.

In reaching our decision we have taken into account all of the written representations received and submissions made at the hearing today. We have also taken into account the nature and location of the premises. We have considered the potential for public nuisance, crime and disorder and harm to children posed by the application and balanced this against the rights of local residents to peace and quiet.

We have also had regard to the written statement from Mr and Mrs Worrall that has been read to us by their representative this morning. However, we are of the view that there is little or no evidence contained either in the statement or in the written representations from other objectors which could reasonably lead us to conclude that noise or public nuisance is likely to be caused

by the operation of these premises.

We have also taken into account the fact that there have been no objections to the application from the police or the Council's Environmental Health Department.

Finally, we have given full consideration to the relevant terms of the Statutory Guidance as well as our own Statement of Licensing Policy, in particular, paragraph 5.1.4 which states that *'the Council will support café bar conditions where the sale of alcohol and other beverages are by a waiter/waitress service for consumption by persons seated at tables or equivalent and substantial refreshments are available during opening hours.'*

A written notification of the decision will be despatched in due course.

Furthermore, we would like to remind those present that under Section 51(1) of the Licensing Act 2003, an interested party or responsible authority may apply to the Licensing Authority at any time for a licence to be reviewed.

In any event, there is a right of appeal under the provisions of section 181 and Schedule 5 of the Licensing Act 2003 against the decision of the Licensing Committee should you be aggrieved at the outcome. This right of appeal extends to the Applicant in the case of refusal or restrictions on the licence or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations either where the licence has been granted or, where they do not consider that relevant conditions have been set.

Full details of the right of appeal can be found within Schedule 5 of the Act while any appeal should be made within 21 days of notification of this decision."

The meeting ended at 11.40am

I J White
Chair