

Licensing Act Sub-Committee

Minutes of meeting held in Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG on 1 April 2019 at 4.30 pm

Present:

Councillor Pat Hearn (Chair)

Councillors Tony Freebody and Jim Murray

Officers in attendance:

Danielle Ball (Specialist Advisor - Licensing, Service Delivery), Stewart Bryant (Senior Specialist Advisor (Licensing and Pollution)) and Michele Wilkinson (Lawyer (Housing & Regulatory)), and Emily Horne, Committee Officer

13 Apologies for absence.

There were none.

14 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests under the Code of Conduct.

There were none.

15 Application for a new premises licence - 32-34 Cornfield Road

All parties present introduced themselves and the Chair detailed the procedure to be followed at the hearing. There were no objections to the procedure from those present.

The Specialist Advisor for Licensing outlined the report setting out the application for a new premises licence for 32-34 Cornfield Road.

Details of the application for a new premises licence were appended to the report. When submitting an application for a new premises licence under the Licensing Act 2003, the applicant was required to describe

any steps they intended to take to promote the four licensing objectives, as defined by the Licensing Act 2003. These were appended to the report at Appendix 1.

The premises in question is located within the cumulative impact zone (CIZ) and where valid representations were received, the cumulative impact policy (CIP) created a rebuttable presumption that the application be refused.

Following a consultation period of 28 days, three representations had been received and were included in part of the agenda pack circulated. The representations centred on the prevention of public nuisance and the prevention of crime and disorder.

Sussex Police as a responsible authority had mediated with the applicant and agreed two conditions. A copy of the e-mail correspondence was attached at Appendix 3 of the report.

Kirsty Rolfe, Sussex Police Licensing Officer, proposed alternative conditions to those previously mediated with the Applicant. See Decision Notice.

Mr Tamal Taru Saha, representative of Mr Rabin Paul, Leaseholder of 28-30 Cornfield Road, made his submission on the grounds of the prevention of public nuisance. He raised concerns regarding the applicant's proposal to play live music on Friday and Saturday evenings and on Christmas Eve and New Year's Eve till 2am, stating there would be substantive noise pollution. He urged the Sub-Committee to refuse the application.

Melaine Bell, 34a Cornfield Road and representative of Martina Ercolini, Flat 3, 12 Lushington Road, said that public notices would not act as a deterrent to prevent people congregating and creating a disturbance. She said the external doors would probably be left open allowing noise from inside the premises to escape. She also said there would not be sufficient space outside the front of the premises on the pavement for people to pass a bench or a small table safely with a pram or in a wheelchair. She raised further concerns regarding refuse and live amplified music, stating that soundproofing was not considered necessary at the time when the flats were built and she was subsequently refused planning permission for UPVC windows. She said the application, if approved, would affect the quality of their lives.

Christian Schmidt, representative of the applicant, addressed the Sub-Committee, stating that he apologised on behalf of the applicant for the ambiguity of the wording in the application. He said the purpose of the businesses was as a gallery/book club with a cafe, not as a nightclub with DJ etc. He said the premises would open under conventional hospitality hours

providing coffee, tea and snacks and occasionally there would be large events to conclude at 10pm. Different Eastbourne artists would be invited to attend every month. He said there would be no PA system, just ambient music to allow conversation. This, he said, would be a positive cultural and creative premises in the Devonshire Quarter.

In response to questions from the Sub-Committee, the applicant confirmed the internal measurements of the premises would be 10m x 5m. She confirmed the seating arrangements, stating that inside the premises there would be four café tables and several stools around the bar. Following communication with Kirstie Rolfe, no provision would be made for outside seating. Private events would be held once a month, these would include private viewings which would provide an opportunity for artists to exhibit and sell their work. These events would be limited to 20/30 people. The DJ, she said, would be herself changing CD's and playing ambient jazz and classical music. There would be no amplified music. She said it was unlikely that the landlord would allow the installation of soundproofing to limit noise emissions.

In response, Melanie Bell, questioned how the applicant intended to limit the number of attendees for live music events; and given the vertical alcohol restrictions, she said 20/30 people would not be able to sit down at four cafe tables to eat and drink. Furthermore, she said she would still be able to hear music whether amplified or not as there is no soundproofing between the buildings.

Following all the evidence presented, the Sub-Committee retired to consider and determine the application.

Having taking into account all the relevant considerations, the Sub-Committee reconvened and announced the decision as follows:

RESOLVED: That the application to vary the license be approved.

The meeting ended at 5.43 pm

Councillor Pat Hearn (Chair)

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Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Monday 1 April 2019

Premises Licence Holder/Designated Premises Supervisor:	Ms Jaswant Bhopal
Premises:	32-34 Cornfield Road, Eastbourne, BN21 4QH
Reasons for Hearing:	Relevant representation received from interested parties under the prevention of public nuisance and the prevention of crime and disorder.
Parties in attendance:	<p>Councillors: Pat Hearn (Chair) Tony Freebody Jim Murray</p> <p>Licensing Authority: Danielle Ball (Specialist Advisor - Licensing) Stewart Bryant (Senior Specialist Advisor (Licensing and Pollution))</p> <p>Legal Advisor: Michele Wilkinson (Lawyer)</p> <p>Democratic Services: Emily Horne (Committee Officer)</p> <p>Applicant: Ms Jaswant Bhopal</p> <p>Representative: Christian Schmidt</p>
Decision made:	That the application for a premises license is granted with the modified condition that no alcohol is to be consumed outside of the premises at any time and that this condition replaces the two mediated conditions made between the Police and the applicant.
Reasons for Decision:	The application concerned the grant of a new premises licence under the Licensing Act 2003 for the supply of alcohol on Monday – Saturday between 10.00hrs and 23.00hrs and on Sunday between 10.00hrs and 22.30hrs. Apart from on Christmas Eve and New Year's Eve when application is for 10.00hrs to 2.00hrs. Further the application was for a licence for live music on Thursday and Friday between 19.00hrs and 22.00hrs, and

recorded music on Monday – Saturday between 10.0hrs and 23.00hrs and on Sundays between 10.00hrs and 22.30hrs.

In discharging its functions the Sub Committee considered the promotion of the relevant licensing objectives, the Council's own Licensing Policy, the Home Office guidance and the rules of natural justice.

As a result of the consultation process three representations were received. The Sub Committee gave due regard to the written representations received from Martina Ercolini, Rabin Paul and Melanie Bell and in addition the oral representations of Tamal Taru Saha made on behalf of Rabin Paul and Melanie Ball made on behalf of herself and Martina Ercolini.

The representations involved the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder. Representations were made that the playing of both live and recorded music would cause a significant noise nuisance particularly to those living in the immediate vicinity of the premises given the lack of sound proofing in the building. Representations were also made about the premises being within the Cumulative Impact Zone and that Cornfield Road was a centre of night life with residents having to deal with nuisance and criminal behaviour so that another licensed premises in that area would be likely to exacerbate the situation.

The Sub Committee considered the new application and the oral representations made by the applicant's representative at the hearing that the premises would not be predominately a drinking establishment but more of a café/gallery (intended it to be a cultural hub). That alcohol would mainly be served only at occasional small (generally not more than 20 people) private viewings and gatherings. The applicant's representative stated that any music would be largely in the background and clarified, that contrary to their application, amplified music would not be played.

The Sub Committee noted that the premises are within the Cumulative Impact Zone.

The Sub Committee noted that no Responsible Authorities had made any representations although Sussex Police had mediated with the applicant two conditions, which were outlined at Appendix 3.

In its deliberations the Sub Committee considered what decision would be appropriate and proportionate from the options outlined in paragraph 9 of the Report.

	<p>The Sub Committee resolved to grant the premises licence with the modified condition that no alcohol is to be consumed outside of the premises at any time and that this condition replaces the two mediated conditions made between the Police and the applicant.</p> <p>The Sub Committee were satisfied that upon clarification by the applicant of the uses of the premises that the grant of the application would not add to the cumulative impact in the area or undermine the licensing objectives, in particular those of the prevention of public nuisance or crime and disorder.</p>
Date of Decision:	1 April 2019
Date decision notice issued:	4 April 2019

A written or electronic copy of this Notice will be available to all Parties and published on the Council's website.

RIGHT OF APPEAL

The Licensing Act provides a right appeal to the Magistrates Court in respect of an application for a variation of a premises licence. An appeal must be commenced by notice of appeal being given by the appellant to the Magistrates Court within a period of 21 days beginning on the date the appellant was notified in writing of the decision of the Licensing Act Sub-Committee.

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