



Lewes District Council

Licensing Sub-Committee

Minutes of a meeting of the **Licensing Sub-Committee** held in the **Warren Room, Lewes House, High Street, Lewes** on **Tuesday, 9 May 2017** at 10.00am

Present:

Councillor S Gauntlett (Chair on election)
Councillors B Bovington and J Harrison-Hicks

Officers Present:

Z Downton, Committee Officer
S Lindsey, Licensing Officer
M Wilkinson, Housing & Regulatory Lawyer

Applicant Attending:

C Slijpen
R Senior, Chair of Trustees, Lewes Community Screen

In Attendance:

Councillor S Catlin, Lewes District Council

Also present:

33 members of the public, 13 of whom spoke in respect of the Application

	Minutes	Action
1	Election of Chair of the Sub-Committee <u>Resolved:</u> 1.1 That Councillor Gauntlett be elected Chair of the Sub-Committee for this meeting.	
2	Application for a Premises Licence. Lewes Community Screen – Depot, Pinwell Road, Lewes, BN7 2JS The Chair of the Sub-Committee welcomed all parties to the hearing. Those attending introduced themselves and the procedure to be followed was read out to all parties present. The Sub-Committee considered Report No 71/17 in respect of the Application for a Premises Licence for the Lewes Community Screen –	

Depot, Pinwell Road, Lewes, BN7 2JS.

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

The Application related specifically to the following licensable activities:

- the sale of alcohol for consumption on and off the premises from 10.00am until 12 midnight on Monday to Sunday;
- the exhibition of films indoors and outdoors from 9.00am until 12 midnight on Monday to Sunday;
- live music indoors and outdoors from 11.00pm until 12 midnight on Monday to Sunday;
- recorded music indoors and outdoors from 11.00pm until 12 midnight on Monday to Sunday; and
- late night refreshment indoors and outdoors from 11.00pm until 12 midnight on Monday to Sunday.

The Lewes Community Screen was a charity trust that had been established by a group of Lewes residents in late 2012. After the purchase of the site in 2013, the Lewes Community Screen submitted a planning application in April 2014 to the South Downs National Park Authority for the conversion, adaption and extension of the former Harvey's Depot building to house a 3-screen digital cinema, film education/training facilities, multi-use room for training/community use, ancillary café bar and restaurant, ancillary back and front of house accommodation (including visitor toilets, staff welfare accommodation, office, server room, kitchen and store) with hard and soft landscaping of the former tarmac service yard.

A planning application had been approved in March 2015 and construction work commenced in July 2015. The elevation plans that had been submitted as part of that application were shown under Appendix 2 of the Report.

The Licensing Officer explained that she had received 37 letters and emails of representation objecting to the Application from members of the public. The objections were made on the grounds that the Application would undermine the licensing objectives of public nuisance, the prevention of crime and disorder, public safety and the protection of children from harm. The Licensing Officer had also received one letter in support of the Application. Copies of the representations made against and for the Application were set out in Appendices 6 and 7 respectively. It was noted that no representations had been received from the responsible authorities.

A plan showing the proximity of other licensed premises to the Depot, Pinwell Road, Lewes was set out under Appendix 3 of the Report.

The Licensing Officer highlighted that, following publication of the Report, the Applicant had since removed all references to non-standards timings that had been included in the original Application, i.e. for up to 15 occasions per calendar year, a licence until 2.00am for the sale of alcohol, live music, recorded music and late night refreshments (and which had been set out under Section 5 of the Report).

The members of the Sub-Committee and the Applicant confirmed that they had no questions to ask the Licensing Officer regarding the Report.

In response to a question by a representor, the Licensing Officer clarified that although the non-standard timings had been removed from the Application, the Applicant could apply separately for up to fifteen Temporary Event Notices per year.

The Sub-Committee invited Mr Senior, Chair of Trustees (Lewes Community Screen) to present the case on behalf of the Applicant. Mr Senior explained that the venue would be inclusive to all ages and had generated a lot of excitement in the locality. He added that the licence being applied for was on the same terms as used by the All Saints Centre in Lewes, a venue that also showed films. He considered it important to raise that the licence being applied for was a framework and did not indicate the actual operational hours (as would be advertised on the venue's website). For example, he explained that the licence would facilitate the showing of longer films or post-film discussions. He highlighted that the venue was not a pub or nightclub and was intended to be a convivial place. He explained that the outdoor terrace area would be a pleasant area, suitable for al fresco dining. He further explained that the venue might hold outdoor events, although nothing had been planned as yet and any such events would be finished outdoors by 11.00pm. Mr Senior hoped that once opened, the venue would validate the regeneration of the site. Mr Senior felt that there had been huge misunderstandings of the licence being applied for and what would be the actual operational arrangements of the venue.

The Sub-Committee confirmed it had no questions to ask Mr Senior in respect of the Application. The Chair invited members of the public present who had made a representation to ask questions to the Applicant.

On behalf of the Applicant, Mr Senior responded to questions from members of the public. He explained that as yet they had no plans for outdoor events involving live or recorded music, performances or speakers. He added that the venue may hold events such as a barbecue with background music or a jazz-style brunch but reiterated that nothing had been planned. Mr Senior clarified that the outdoor terrace could seat 30 - 40 people and that the last orders in the restaurant would be 9.30pm.

In response to further questions from members of the public, the Applicant advised that the licence being applied for would allow people to stay in the venue for a post-film drink. Ms Slijpen explained that the venue did not currently have the facilities to hold outdoor film screening events and added

that it would be nice to be able to offer that in the future.

In response to a question from a member of the public on whether it would be sensible to remove the inclusion of the sale of alcohol for off-site consumption from the licence, Mr Senior stated that it was important to the venue to be able to allow customers to take home, for example, a half consumed bottle of wine if they wished to do so.

The Chair invited those who had made a written representation and who also wished to address the Sub-Committee to present their individual cases in respect of the Application.

Mr Graham Clews, who had made a representation against the Application, explained where he lived in proximity to the site and the noise disruption he already experienced. He explained that his family were in support of the cinema, but not necessarily opening until midnight and the potential for outside entertainment was a concern. Mr Clews drew attention to the Council's Statement of Licensing Policy, as set out in Section 3 of the Report; the aim of which was to promote the four licensing objectives. He asked members of the Sub-Committee how they would feel if the proposals were happening on their doorstep.

Mrs Kay Crofton-Green, who had made a representation against the Application, explained that she had been in support of the plans initially. She felt that residents had built up a good rapport with the owners and were kept informed of the venue design, for example. However, she highlighted that there was no mention on the original planning application of the Depot also being a music venue. She considered that the Depot owners were now seeking a significantly more generous licence. Mrs Crofton-Green was most concerned about the outdoor licensable activities and potential noise impact on residents. She felt that the owners should have consulted more with residents on the licence being applied for.

Mr Michael Deacon, who had made a representation against the Application, explained that his property directly overlooked the cinema and that he was concerned about the potential for increased noise levels having a cumulative affect with the late night street noise already experienced by residents. Mr Deacon highlighted his right to enjoy his property and to peace. He also expressed his concern over the sale of alcohol for consumption off the premises and sought re-assurance on how that would be managed.

Mr Daniel Minnikin, who had made a representation against the Application, questioned the Applicant's steps to promote the licensing objective in respect of the prevention of public nuisance, as detailed under paragraph 6.5 of the Report. In respect of the first, under paragraph 6.5.1, he felt that notifying neighbours in advance of any events involving live or recorded music outside after 11.00pm was not necessarily a preventative measure. In respect of the second step, under paragraph 6.5.2, he felt that erecting a sign asking guests to leave the premises in a quiet manner was a weak

gesture towards preventing public nuisance. Mr Minnikin also commented that there was no reason for the sale of alcohol for off-site consumption to be given to any cinema. He raised that the potential for increased public nuisance from noise levels would have a detrimental impact on residents.

Mr Peter Langworthy, who had made a representation against the Application, explained that he was excited about the cinema but concerned over the proposed licensable activities in respect of the sale of alcohol and late night opening and the potential to increase noise disruption. He urged the Applicant to make sure that the venue was in keeping with the area.

Mr Scot Wotherspoon, who had made a representation against the Application, expressed concern over the potential for noise disruption at the back of his property which overlooked the cinema, and the affect it would have on his family members who sought refuge at the back of their house from noise occurring in the street at the front. He suggested that there should have been more consultation with residents and consideration of their concerns. Mr Wotherspoon concluded that he was in support of a cinema that considered the local community.

The Sub-Committee adjourned for a break at 10.45am and resumed at 10.55am.

Ms Joanna Reeves felt that anxiety about the project had arisen as the Depot had been unclear about the venue's purpose and that the owners were now proposing an arts centre space and café/restaurant in addition to the cinema. She felt that Mr Senior seemed vague about the type or number of licensable events that may or may not take place at the venue. She stated that the extra hour of drinking between 11.00pm and 12 midnight would add to disruption already experienced by residents at the front of their properties, and for noise disruption to occur at the rear of homes as well would be unbearable. Ms Reeves questioned whether members of the Sub-Committee had visited the site of the venue.

Mr James McCauley, who had made a representation against the Application, stated that any increase in noise disruption would have a detrimental impact on residents. He was concerned that the sale of alcohol for off-site consumption would encourage those searching for a late night drink. He questioned whether there was any way of making alcohol sales at the venue for cinema customers only, or whether an alcohol licence was essential to the business of a cinema.

Mr Zuky Serper, who had made a representation against the Application, explained that although he and his family supported the project and were excited about the cinema and arts centre space, their main concern was regarding the potential disruptive level of sound and the late night sale of alcohol for off-site consumption.

Mr Martin Cox, who had made a representation against the Application, was concerned about a licence that allowed the sale of alcohol for off-site consumption. He explained that residents of Pinwell Road, Lewes already

experienced noise disruption, vandalism and had to clean up the results of late night drinking as the road was un-adopted and not maintained by the local authority. He added that the cinema would attract those looking to purchase alcohol after the nearby licensed premises had closed.

Mrs Margaret Buddery, who had made a representation against the Application, questioned why the Applicant wanted to play music outdoors in that particular residential area, whether recorded or live music. Mrs Buddery stated her objection to the licensing of alcohol consumption outdoors at the venue at any time.

Councillor John Lamb, Lewes Town Councillor (Bridge Ward), who had made a representation in support of residents who objected to the Application, stated that he endorsed the comments made by the previous speakers. Councillor Lamb asked the Sub-Committee to consider limiting the licensing conditions in respect of outdoor music.

Mr Daniel Crofton-Green, who had made a representation against the Application, drew comparisons to nearby licensed premises and asked why a cinema venue would need more generous licensing conditions than certain pubs in the nearby vicinity.

The Chair thanked all those who had addressed the Sub-Committee. The Housing and Regulatory Lawyer confirmed that all of the written representations submitted, as set out in Appendices 6 and 7 of the Report, would be taken into consideration by the Sub-Committee when determining the Application.

The Sub-Committee confirmed it had no questions to ask of the Representors.

Mr Senior was invited to sum up the case on behalf of the Applicant. Mr Senior commented that, although there seemed to be an emphasis by objectors on late-night drinking at the venue, it was not in reality going to happen. He explained that the Lewes Community Screen was a charitable, non-profit trust. Mr Senior asked residents to put their trust into the owners and in time they would find how enjoyable the venue would be.

Upon invitation by the Chair, Councillor Lamb spoke to sum up the case on behalf of the Representors against the Application. He concluded that although everyone seemed in favour of the venue, the problem was the terms of the proposed licence and the public nuisances that might be generated if the licence was granted. Councillor Lamb requested that the Sub-Committee considered putting sensible restrictions on the premises licence to protect what was otherwise a peaceful part of Lewes.

The Sub-Committee withdrew to consider the evidence. The Housing and Regulatory Lawyer explained that all parties would receive written notification of the Sub-Committee's decision within the legal timescales. The decision was made as follows:

Resolved:

“The hearing concerned an application from Lewes Community Screen (“the applicant”) for a premises licence at Lewes Community Screen (Depot), Pinwell Road, Lewes.

The licensable activities originally applied for were contained within pages 3 and 4 of the Report. The Licensing Officer, when presenting the Report, informed those present at the hearing that the applicant had withdrawn (on 8 May 2017) that part of their application that related to non-standard timings i.e. for up to 15 occasions per calendar year, a licence until 2.00am for the sale of alcohol, live music, recorded music and late night refreshments.

In discharging its functions the Sub-Committee considered the promotion of the four licensing objectives, the Council’s own Licensing Policy, the Home Office guidance, other relevant legislation and the rules of natural justice. The Sub-Committee considered the application and the applicant’s oral representations made at the hearing. Due regard was also given to the written and oral representations of those who had made relevant representations.

The Sub-Committee before making its decision also made a site visit to the premises.

The Sub-Committee noted that the Police had no objections to the grant of the premises licence provided that the steps offered by the applicant to promote the licensing objective are attached to the premises licence. These are outlined in the Report in the numbered paras 6.3.1 to 6.6.3. It noted that no Responsible Authority had objected to the application.

Decision

The Sub-Committee resolved to grant the premises licence with the modified conditions (those relating to licensed hours) as below;

- sale of alcohol for consumption on and off the premises for 7 days a week between 10.00am and 11.00pm
- the exhibition of films indoors for 7 days a week between 9.00am and midnight and the exhibition of films outdoors for 7 days a week between 9.00am and 11.00pm
- live music indoors for 7 days a week between 11.00pm and midnight and live music outdoors for 7 days a week until 11.00pm
- recorded music indoors for 7 days a week between 11.00pm and midnight and recorded music outdoors for 7 days a week until 11.00pm
- late night refreshments indoors for 7 days a week between 11.00pm and

midnight and late night refreshments outdoors for 7 days a week until 11.00pm

Reasons for the decision

In making its decision the Sub-Committee took account of the concerns of the local residents who had made representations about the impact of noise and public nuisance if the application was granted. It also noted the representations made about how the licensable hours applied for would impact on the licensable objective of the prevention of public nuisance. When modifying the licensable hours it considered both the characteristics and activities of the Depot and the rights of local residents in a residential area to peace and quiet. The Sub-Committee considered that with the modified licensable hours the four licensing objectives would be addressed.

The Licensing Act 2003 provides a right of appeal to the Magistrates Court in respect of an application for a premises licence. This right of appeal is open to both the applicant and to any person who has made a relevant representation. 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 is notified in writing of the decision of the Licensing Sub-Committee.

This decision will be provided to all parties in writing within the legal timescales.”

The hearing ended at 11.20am

S Gauntlett
Chair