



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 **Wednesday, 26 July 2017** at 10.00am

Present:

Councillor I Linington (Chair on election)
Councillors W Elliott and J Harrison-Hicks

Officers Present:

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

Applicant's Representative Attending:

Chris Mitchener, Licensing Consultant, Licensing Solutions

Representors:

Councillor M Evans, Chailey Parish Council
M Rider

Also present:

Councillor L Boorman, Lewes District Council
J Victory, Scrutiny Officer

	Minutes	Action
1	<p>Election of Chair of the Sub-Committee</p> <p><u>Resolved:</u></p> <p>1.1 That Councillor Linington be elected Chair of the Sub-Committee for this meeting.</p>	
2	<p>Application to Vary a Premises Licence – Chailey Service Station, North Chailey Crossroads, Chailey, BN8 4DH</p> <p>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.</p>	

The Sub-Committee considered Report No 109/17 in respect of the Application to vary a premises licence at Chailey Service Station, North Chailey Crossroads, Chailey, BN8 4DH.

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

The Application related specifically to the proposal to vary the existing licensable activities, as follows:

- To extend the hours of sale of alcohol, to add the provision of late night refreshment and to deposit modified plans (as set out under Appendix 2 of the Report);
- Sale of alcohol: The existing premises licence was for the sale of alcohol on Monday to Saturday from 6.00am until 11.00pm and on Sundays from 7.00am until 11.00pm. The Applicant was applying to extend that provision to a 24-hour service; and
- Late night refreshment: The Applicant was applying to add this provision to their current Premises Licence from 11.00pm until 5.00am (the following morning) and had limited that to the supply of hot drinks only (no hot food).

The premises to which the Application referred to was a convenience store attached to a petrol forecourt. The site was located on the outskirts of Chailey, near Lewes, within a residential area on a main road.

The Licensing Officer circulated copies of the existing Premises Licence (Appendix 3) in addition to the information presented within the Report. A copy of which is contained in the Minute Book.

The Licensing Officer explained that she had received 19 objections to the Application from members of the public and Chailey Parish Council. The objections were made on the grounds that the variation application would undermine the licensing objectives of public nuisance, the prevention of crime and disorder, public safety and the protection of children from harm. Copies of the representations made against the Application were set out in Appendix 5. It was noted that no representations had been received from the responsible authorities, although the Applicant had agreed additional conditions with Sussex Police and those were set out under section 7 of the Report.

Photographs of the service station and surrounding premises were set out under Appendix 4 of the Report.

The options available to the Sub-Committee when considering the Application were set out under paragraph 18.

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

the Report.

The Sub-Committee invited Mr Chris Mitchener, Licensing Consultant, to present the case on behalf of the Applicant (Motor Fuel Ltd). Mr Mitchener explained that it was already possible for the premises to be open 24 hours per day and that in the near future they intended to actually start opening 24 hours a day. He clarified that the Application sought to extend the licensable activity relating specifically to the sale of alcohol and to add the provision of late night refreshments. Mr Mitchener highlighted that no representations had been made from the responsible authorities.

In addressing the individual representations made against the Application, Mr Mitchener made the following comments:

- The issues of whether there was a need or local demand for the variations being applied for were not relevant to the application process and could not have a bearing on the decision.
- The Applicant stood by its Community Statement.
- It was a commercial judgement for the Applicant to decide whether the requested variations to the existing licence were viable.
- In terms of security and risk of break-ins, operating a 24-hour business made it easier to avoid such incidents as there was a presence on site at all times.
- Concerns that 24-hour trading would attract public nuisance, litter, drivers from far afield, increase in alcohol consumption/underage drinking or criminal activity were purely conjecture and not evidence-based. No representations had been made by Sussex Police in respect of the Application.
- Regarding staffing levels; a single member of staff would be present overnight and access to the shop would be at the discretion of the individual staff member. This was a health and safety measure and was not relevant to the licensable activity. All staff were fully trained and tested every three months.
- The Licensing Act, Home Office guidance and the Council's Statement of Licensing Policy were clear that the Applicant could not be held responsible for the actions of customers once they had left the premises, although the Applicant was aware of its social responsibilities and had already agreed additional conditions with Sussex Police and had offered its own conditions to promote the licensing objectives.
- The Applicant was an experienced licensed premises operator.

In response to questions by the Sub-Committee, Mr Mitchener explained that the Applicant had put forward a condition as part of the original Application whereby access to the shop would be at the discretion of the cashier from 11.00pm to 5.30am. Mr Mitchener confirmed that the Applicant would not be seeking to reinstate the public toilets on the premises.

In response to matters raised by representors present, Mr Mitchener explained that there would be no security guard on the premises during

overnight trading hours. Mr Mitchener further explained that staff received the appropriate training in order to assess whether to sell alcohol to customers.

The Chair invited those who had made representations to present their cases in respect of the Application.

Councillor Mark Evans, Chailey Parish Council (who had also made a representation against the Application in a personal capacity) spoke on behalf of Chailey Parish Council which had made a representation against the Application. He raised the concerns of residents regarding the potential for public nuisance and disturbances outside of the shop and what was reasonably to be expected by residents of their local amenity. He also highlighted the submitted objection by Councillor Davy, Chailey and Wivelsfield Ward Councillor of Lewes District Council.

Mr Michael Rider, who had made a representation against the Application, spoke on behalf of the local community and reiterated the main concerns of those who had objected on the grounds of potential for noise and disturbances and increase in litter and anti-social activity.

Mr Mitchener was invited to sum up the case on behalf of the Applicant. Mr Mitchener stated that representations submitted against the Application should not be based on what might happen if the Application was to be granted as that was conjecture. He commented that the Sub-Committee must be guided by the Licensing Act, Home Office guidance, the Council's Licensing Policy and the advice of Council officers. He reiterated that no representations had been made by the responsible authorities. Mr Mitchener concluded by requesting that the Application be granted on the terms applied for.

The representors present were invited to sum up their individual cases. Councillor Evans drew the Sub-Committee's attention to paragraph 1.4 of the Council's Statement of Licensing Policy, as set out under Appendix 6 on page 50 of the agenda. Councillor Evans read aloud the conclusion paragraph from the representation made against the Application submitted by Chailey Parish Council, as set out under Appendix 5 on page 47 of the agenda.

Mr Rider summarised the concerns of local residents and the grounds on which they had objected to the Application. He asked the Sub-Committee to consider the potential for public nuisance and misuse of alcohol and the amenity of local residences.

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 of the Sub-Committee was delivered as follows:

Resolved:

“The Hearing concerned a variation of the premises licence at Chailey Service Station, North Chailey Crossroads, Chailey. The Applicant applied for a variation to extend the licensing hours in relation to the sale of alcohol from 23.00 hrs 7 days a week to a 24 hour service. In addition the application is to vary their current licence to allow late night refreshments from 23.00 hrs to 5.00 hrs but limited to the supply of hot drinks only.

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.

The Sub-Committee considered the variation application and the oral representations made by the Applicant’s representative Mr Mitchener at the Hearing. Mr Mitchener’s representations were that the premises had been open for a number of years and there had been no particular issues of public nuisance. He argued that the premises would not act as a magnet to people outside of the area and that there was no link between the premises and crime and disorder.

Due regard was given to the 19 written objections from members of the public, Chailey Parish Council and a local District Councillor. The Sub-Committee noted the oral representations made at the Hearing by Councillor Mark Evans representing Chailey Parish Council and Mr Michael Rider representing the local community.

The representations were that increasing the licensable hours for the provision of the sale of alcohol would undermine the four licensing objectives in particular public nuisance, especially noise. The Sub-Committee were sympathetic to the concerns of the local residents.

The Sub-Committee noted that no Responsible Authorities had made any representations although Sussex Police had mediated with the Applicant a number of conditions, which were outlined in paragraph 7 of the Report.

In its deliberations the Sub-Committee considered which decision would be appropriate and proportionate from the options outlined in paragraph 18 of the Report.

Decision

The Sub-Committee resolved to grant the variation to the licence in the same terms as it was applied for.

Reasons for the decision

The Sub-Committee was content that the Applicant was aware of its social responsibilities and the conditions offered and those mediated with the Police would be sufficient to meet the licensing objectives. The Sub-Committee noted the Applicant’s representative’s statement that the

premises would be open for 24 hrs in any event. The Sub-Committee considered its own Licensing Policy and in particular paragraph 5.2.5 but did not believe there were good grounds that the licensing objectives would be undermined.

The Licensing Act provides a right of 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 is notified in writing of the decision of the Licensing Sub-Committee.

The decision will be provided in writing to all parties.”

The hearing ended at 12.38pm

Councillor Linington
Chair