

Decision of Licensing Act Sub Committee. Hearing 1 December 2020

Application for a new premises licence for Superfuzz Limited, 3 The Malthouse, Daveys Lane, Lewes, BN7 2BF

The application, made by Andrew Mellor on behalf of Superfuzz Limited, concerned the grant of a new premises licence under the Licensing Act 2003 for the sale of alcohol on and off the premises everyday between 12:00 - 23:00 hrs (except for New Years Eve); the provision of live music on Monday to Friday between 16:00 - 22:00hrs and on Saturday and Sunday between 12:00 – 22:00hrs; and the provision of recorded music Monday to Thursday between 16:00 – 23:00hrs and on Friday/Saturday/Sunday between 12:00 - 23:00hrs.

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 application and the oral representations made by the applicant (Andrew Mellor with the support of Andy Bridge) at the hearing which included that the primary use of the premises would be as a brew site along with a tap room. The applicant expressed his appreciation of the concerns of local residents particularly their concerns relating to noise. He stated that the applicant was "community minded" and reassured the representors that the premises would not be "rowdy". Mr Mellor outlined his experience as a licence holder in reference to the good management of the Pelham Arms public house. He stated that had been a problematic premises but that under Superfuzz's management there had been no problems with anti-social behaviour and the Police had had no need to intervene. He stated that they wanted these premises to be part of the community and that they were respectful of those who lived locally. He accepted that the premises were near to residential properties but promised that any noise would be kept to a minimum and sound proofing would be installed. In relation to the approach to the premises the applicant stated that this would be via an access route which should avoid the residential properties. He also stated that he believed that the outdoor space would be sheltered by the surrounding buildings and thus limit the noise to the nearby residential properties. The applicant stated that the expected clientele would not be drinking to excess and they would be selling a premium product (craft beer) at premium prices. He clarified, in response to a question, that live music events would be held occasionally rather than regularly.

As a result of the consultation process three representations were received. One representation was a petition signed by eight people. The representations involved the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The Sub Committee gave due regard to all written representations and the oral representations, made at the hearing, of Irina Velkova, Stephanie Troeth, Suzanne Rose and Jim Ball. Those representations included that whilst the premises might be sited in an industrial unit it was surrounded by residential properties in a quiet area of Lewes and that granting the licence would drastically increase noise levels. The representors stated that the premises would be in an inappropriate venue. It was considered that the applicant, despite his protestations, would in fact have little control of how customers would access the premises and would be unable to stop customers passing local residents properties. Representations included that there would be noise from the outdoor area of the premises which could not effectively be sheltered and it was contended that sound proofing would be unlikely to work within the premises. It was

made clear that the representors had no objections to remote sales but had concerns with customers attending the premises and in particular the use of the outdoor space, the live music and activities on Sundays. They asked the Sub Committee to consider, if it were minded to grant the licence, to reduce the opening hours, to limit the number of live music events, to make the licensee responsible for littering in the area, to take steps to control the access route, to ensure that no deliveries were made after 1.00pm on a Saturday, to have CCTV, and to have no live music on a Sunday past 4.00pm.

The Sub Committee noted that no Responsible Authorities had made any representations.

In its deliberations the Sub Committee considered what decision would be appropriate and proportionate from the options outlined in paragraph 7.1 of the Report.

Decision

The Sub Committee resolved to grant the premises licence, subject to modified hours and the addition of appropriate conditions on the licence.

Modified hours:

Sale of alcohol for consumption off the premises where sale made remotely (e.g. via telephone or internet) the licensing hours to be as applied for. Everyday 12:00 - 23:00 hrs.

Sale of alcohol for consumption at the premises the licensing hours to be Monday to Thursday (inclusive) 16:00 to 20:00 hrs, Friday and Saturday 12:00 to 22:00 hrs, and on Sunday 12:00 to 16:00 hrs. Except for New Year's Eve when licensable hours to be 12:00-22:00 hrs.

In addition to any relevant mandatory conditions, the Sub Committee, noting the applicant's offer at the hearing, considered it appropriate to add a condition to the licence that "The licence holder shall have SIA licensed door supervisor(s) at the entrance of the premises on a Friday and Saturday from 20:00 until 30 minutes after the premises have closed to the public. The number of SIA staff will be determined as follows: 1 to 100 customers and 1 per additional 100 customers after that."

The Sub Committee noted that the applicant had stated that soundproofing would be provided in the premises and considered that it was appropriate to add a condition to the licence that "The licence holder is required to provide a written Noise Management Plan to the Licensing Authority before the commencement of licensable activities. The Noise Management Plan must identify steps to mitigate noise escape from the licensable activities at the premises. It must be reviewed and updated as necessary at least every 12 months or at other times as identified by the licence holder and on review a copy of the Noise Management Plan should be provided to the Licensing Authority."

The Sub Committee noted the concerns of the representors regarding the noise and disturbance that was likely to be caused by customers entering and leaving the premises and therefore the Sub Committee considered it appropriate to add a condition that "The licence holder shall publish on its website, on all relevant literature and on physical signage at the premises the access and egress routes customers should take so that customers are directed away from nearby residential properties."

The Sub Committee considered that it was appropriate given the representation about the importance of CCTV to local residents to amend the CCTV condition offered in the application. Therefore that condition will be “a/ Digital CCTV and appropriate recording equipment will be installed in accordance with the Home Office Guidelines relating to UK Police Requirements for Digital CCTV System, operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation, b/ The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times, c/ CCTV footage will be stored for a minimum of 28 days, d/ The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime, e/The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy, f/ Subject to Data Protection guidance and legislation the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the Police without difficulty or delay and without charge to Sussex Police, g/ Any breakdown or system failure will be notified to the Police immediately and remedied within a time frame agreed with Sussex Police.”

In addition, the Sub Committee would amend the following conditions offered in the licence application, for the sake of clarity;

Age Verification Policy:

The premises will operate an age verification policy of 25 years of age. Any person attempting to purchase alcohol who appears to under the age of 25 will be challenged and required to produce identification proving they are aged 18 years or over. The criteria for the identification is contained in the mandatory conditions.

Staff Training:

Staff engaged in selling alcohol must be trained regarding the sale of age related products as it applies to the Licensing Act 2003. This training must be documented and refreshed every 6 months. The training records must be made immediately available to an Officer of a Responsible Authority on demand.

Reasons for decision

The Sub Committee in making this decision took into account the concerns expressed by those making representations in relation to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance in particular noise. It also took into account the applicant's representations that the business would be primarily a brewery with a tap room and considered that given the nature of the business and its potential customers it was unlikely to undermine those licensing objectives. On that basis the Sub Committee decided to grant the licence and it considered that the modifications to the hours applied for and the addition of the conditions referred to above would address the legitimate and relevant concerns expressed.

The Licensing Act 2003 (Schedule 5) provides a right of appeal to the Magistrates' Court in respect of the grant of a premises licence to both the licence holder and those who have made relevant representations. 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 Sub Committee.