

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing  
Committee  
held on Friday, 25th October, 2019  
from 11.00 am - 12.55 pm**

**Present:** Councillors: I Gibson (Chairman)  
P Chapman  
S Smith

**Officers in attendance:**  
Sophie Jones, Democratic Services Officer

**Also in attendance:** Mr Stuart Pilbrow, Partner and Premises Licence Holder  
Mr Leo Beirne, Resident  
Mr Frank Berry, Resident

**LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from Councillor Cromie.

**LS.2 TO RECEIVE DECLARATION OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.**

None.

**LS.3 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 22 AUGUST 2019.**

The Minutes of the Committee meetings held on 22 August 2019 were agreed as a correct record and signed by the Chairman.

**LS.4 APPLICATION TO VARY A PREMISES LICENCE - LICENSING ACT 2003.**

**HAY AND STRAW, 16 HIGH STREET, EAST GRINSTEAD, RH19 3AW**

Introduction and outline of the report

Paul Thornton, Senior Licensing Officer introduced the application and he noted that the application is to vary the licence under section 34 of the Licensing Act 2003 (Act). He stated the Committee's job was to determine application in relation to policy and the Act under Section 102. He advised the Sub-Committee that an alcohol licence had been granted to Côte Restaurant, a previous occupant of the premises, but it was surrendered and was never used.

The Senior Licensing Officer highlighted that Mr Pilbrow is applying to vary the licence, to include a small area outside the front of the premise with seating until 21:00 for 12 covers. This would allow alcohol to be lawfully sold on the front area, but the licence will remain the same in that no alcohol can be taken beyond this point or leave the premises. The external area in question is part of the public highway and is part of a pavement area 2m 96cm wide with steps leading to the water fountain. The water fountain has been mentioned in representations. The Senior Licensing Officer

confirmed the matter had been correctly advertised during consultation from the 3<sup>rd</sup> September to 23 September 2019.

He stated that representations have been received from Sussex Police, 2 residents and the Fire Service and the Environmental Protection Team. Sussex Police have agreed conditions 1, 2, and 3, had in the run up to the. The Fire Service inspected the premises in the run up to the Sub-Committee and had withdrawn their representations. The Environmental Protection Team have agreed condition 4 with Mr Pilbrow and have also withdrawn their representations.

The Senior Licensing Officer noted that 2 local residents will speak to their written representations. Mr Berry sited the noise being caused by extending the licence will be a public nuisance, and a public safety concern due to the space taken up on the pavement. Mr Beirne's representations were in relation to management conditions of the licence, and regarding the application submitted at the start of the proceedings, including the operating schedule. The Senior Licensing Officer told the Sub-Committee that anything relating to the planning application should be disregarded. He confirmed that a planning application has been submitted for the outside seating.

The Senior Licensing Officer informed the Sub-Committee that in determining the application must be made having regard to the application and any representations. The representations must address the licensing objectives (prevention of crime and disorder, public safety, prevention of harm to children, and prevention of a public nuisance). He explained that the Sub-Committee can modify both the current and the new conditions of the licence and the Committee can reject the whole application or part of the application. He stated that the final decision is subject to appeal at a Magistrates Court.

In response to questions by the Chairman the Senior Licensing Officer advised that the Environmental Protection Team had withdrawn their overall objection because proposed condition 4 has been accepted by Mr Pilbrow. He confirmed there were no representatives from Sussex Police in attendance. He expected the outside seating to be enclosed by 2 L shaped partitions. He advised the Sub-Committee that the conditions on a premises licence should be appropriate and easily understood by the public. The Sub-Committee can amend conditions to make them easily understood and enforceable.

The Chairman queried the wording on conditions 2 and 3 to make it clear, the Senior Licensing Officer explained that the phrase vertical drinking section is terminology used in Government guidance.

As the Sub-Committee had no further questions the Chairman invited Mr Pilbrow to address the Sub-Committee.

Mr Pilbrow showed the Sub-Committee the seating plan which had been submitted with the planning application. He suggested a rope style barrier across the front of the seating area, leaving the sides open to allow access for customers, noting this would leave 1.8m and 62cm of pavement and step for pedestrians. Mr Pilbrow noted that the tables and chairs would be stacked on the pavement at 9 pm, and then put away. He also stated that the tables and chairs would only be out 70-90 days per year, due to the weather. He suggested that the seating will act as an advert for the premises as it designed to look appealing, and they would manage all patrons. The Chairman advised that the Sub-Committee can only assess the application as received. The Chairman was concerned with the proximity of the seating area to the step. Mr Pilbrow confirmed that the tables would be 1 metre wide, leaving sufficient

room for pedestrians and the premises were located at the widest part of the pavement due to the steps. In response to further questions from the Chairman he confirmed that the management would stop people moving the tables and that he has only used the live music licence 5 times despite it allowing for live music all year. He advised that the style of barrier should be in keeping with the look at the High Street and he was happy to discuss this with Sussex Police. He confirmed had laid out tables on the pavement to check that pedestrians and wheelchairs could pass the premises easily. The Sub-Committee were shown an image on Mr Pilbrow's mobile phone.

The Sub-Committee enquired how patrons would access to the seating area and Mr Pilbrow advised there would be a gap to access the middle tables. The Chairman noted that this demonstration indicated that two customers seated comfortably side by side would occupy a width of 1.4m rather than the 1m suggested by Mr Pilbrow. The Chairman further noted that when the barrier separating the tables from passers-by was taken into account the total width of the seating area would be around 1.7m wide which he was concerned would leave too little remaining pavement width for many users of the pavement to pass by safely. The Committee had a demonstration of how the seating could be laid out. and Councillor Smith said she was concerned with restricted access for electric wheelchair users who may want to sit at a table. She asked Mr Pilbrow if it would be accessible for 4 patrons to sit with a wheelchair. Mr Pilbrow noted that he had not measured a wheelchair and they will need to look at the space available.

The Chairman asked the Senior Licensing Officer for clarification of the wording of condition 1 put forward by the Sussex Police. The Senior Licensing officer explained that during the consultation period, the statutory authorities such as the Police will ask for certain conditions, and Mr Pilbrow has agreed to those conditions. He stated that a breach of the agreed conditions is a breach of the licence.

The Chairman proposed that the committee should add to the condition that the partition will be removed from the pavement as will chairs and tables. The Senior Licensing Officer explained that the Sub-Committee can amend conditions.

The Chairman invited the residents to speak.

Mr Berry explained that he concerns are: Mainly in respect of Public Safety and prevention of Public Nuisance; insufficient space for the public to pass with 3 tables and 12 chairs; and noise levels. He said that he believed that whilst some other premises have tables, these are 1 small table and 2 chairs; he explained that mobility scooters and wheelchairs may struggle to pass by the proposed area. He also said that those tables and chairs must be set up every morning and removed every evening and this will disrupt the public passing by, it would also cause a noise nuisance. He suggested patrons sitting in the proposed area will cause a raised level of noise from 5pm to 9pm every night. He explained that as noise level drops throughout the night, this will become more noticeable, and does not believe this should happen. He stated this was especially relevant within a conservation area, with conservation study being completed. The resident disagreed with the application as he stated it will give the wrong impression of the conservation area. He said that as the tables and chairs cannot be bolted down patrons are likely to move them, and even with a barrier, he believes customers will move their chairs in different directions, blocking the pavement further. He explained that the proposed area's proximity to the step and water fountain creates an issue of safety especially with people consuming alcohol in the area. He asked for clarification on how management will enforce non vertical drinking.

The Chairman clarified that as had been covered Mr Pilbrow did not mean advertising; the outside seating would be to attract patrons. He asked Mr Pilbrow to explain how he would enforce seated drinking as specified in conditions 3 and 4.

Mr Pilbrow explained that he currently has a licence which does not allow drinking outside, and that his team are able to enforce this, he stated he will have staff on the lookout for anyone standing and that his staff will stop anyone standing outside with a drink.

The Chairman asked Mr Pilbrow to explain his training plans. Mr Pilbrow said he would put up notices, and said there is no specific training as far as he is aware for preventing patrons from standing up outside the premises.

The Senior Licensing Officer said there was no requirement for SIA Trained Door Staff at this site; this condition would normally be asked for by Sussex Police.

Mr Pilbrow stated that he fully understands that if he broke the licence it could be reviewed

Mr Beirne, a resident made his representations, he said that his concerns are about safety, specifically potential fire risks, he asked for a diagram of the fire escape which he understood to be a previous concern. He explained that the fire escape is at the back of the building, and he believed that the fire department had showed concern at the emergency access and evacuation; he asked for clarification on how this has been resolved.

Mr Beirne explained his concerns also involved noise as when he was present at the site he was met by another resident who was living near the premise, and this gentleman told him he had complained about the noise. He expressed his concerns that this application would increase the noise further in the area. He explained he has worked in the noise sector since 1982, and would like to know the acceptable noise limit in that areas. He also explained he was informed about a boundary dispute concerning others, and the back entrance escape.

The Chairman thanked both residents. He explained that the fire department is satisfied that evacuation is possible, he also explained that this committee was not going to reopen that issue, and that a boundary dispute is not within the power of this Sub-Committee. He told the Sub-Committee that the current levels of noise are the responsibility of the premise's management and was outside of the responsibility of this committee. He did suggest that the Sub-Committee could discuss the potential noise issue in terms of the timing for the clearing of the tables and chairs he said that the committee could specify that clearing away must happen immediately.

Mr Pilbrow told the Sub-Committee that the clearing of tables and chairs would be done immediately at 9, and said that in summer there is some noise but it would be within normal limits. He also noted that the complaint about noise was due to the extractor fan and that had been fixed.

The Chairman reminded the Sub-Committee that they were here to discuss only the application and issues relating to this.

Mr Pilbrow said that he and his team would be very strict and that the chairs and tables will be cleared away at 9pm and removed from the pavement by 9.15pm.

In response to the Chairman's question Mr Pilbrow said that he would make it very clear that patrons cannot stay past 9pm when they sit down.

Sub-Committee had no questions for the residents.

Mr Pilbrow said that he would be willing to reduce the table numbers and the Chairman asked him to confirm if he wanted the Sub-Committee to make a decision on the application as it stood or if he would like to officially amend it.

Mr Pilbrow told the Sub-Committee he wanted to reduce the number of covers to 6, which would be arranged in 3 tables of 2. He noted this would leave just over 2m of pavement. Mr Pilbrow confirmed to the Chairman that he wanted to reduce the number of covers as he had during the discussions and on examination of the width of the pavement now considered the space with 12 covers may encroach further onto the pavement than had first been thought.

The Senior Licensing Officer told Mr Pilbrow that the Sub-Committee could decide on the application in front of them or if Mr Pilbrow was amending the applications during the hearing the Sub-Committee would make a decision of that amended application.

Mr Pilbrow agreed that he will reduce the covers in the application to 6.

The Solicitor to the Licensing Panel advised that the residents may want time to consider the new number of covers and decide on any amended representations.

Councillor Chapman enquired whether there would still be 1m tables with the reduced covers. Mr Pilbrow explained that he would now use 50cm tables for 2 people as this would reduce the overall size of the external seating area.

The Senior Licensing Officer asked the Sub-Committee to clarify the wording of the new application. The Solicitor to the Licensing Panel noted that this would amend paragraph 4.4 from 12 to 6 covers, and the trading hours would remain the same.

The Chairman, having listened to Mr Pilbrow confirmed the application would now read 3 tables of 2 positioned parallel to the building. The Senior Licensing officer acknowledged the amendment.

The Chairman explained to the residents that they would be able to make a further round of representations after the break to consider the amended application and the meeting was adjourned at 12:03 pm. The Sub-Committee resumed at 12:17 pm.

The Chairman reminded the Sub-Committee that any comments relating to the planning application were not relevant.

Mr Pilbrow stated that he would like to add an L shaped barrier to the application.

The Chairman asked Mr Pilbrow to confirm the kind of barrier.

Mr Pilbrow told the committee that the barriers would be cloth barriers, and with a narrower barrier and would have them further away from the tables.

The resident Mr Berry addressed a question to the Senior Licensing Officer, through the Chairman, he asked would the terms of the licence mean that only alcohol would

be served by staff to customers at the tables, or would customers be permitted to walk with alcohol?

He also enquired as to why some other representations which he was aware of are not in the pack, and if the consultation included East Grinstead Town Council. He also raised concerns regarding the advertising boards and menus, (A boards) and where these would be if the tables and chairs are allowed.

The Senior Licensing Officer confirmed that customers can walk from the bar their alcohol to the outside area to sit down. He also explained that some members of the public's representations were not relevant and so were not counted, it would be inappropriate to ask for a judgement on an irrelevant matter. He said that East Grinstead Town Council did not put in a representation, and they are not a statutory consultee.

Mr Beirne raised a concern about the location of the A boards, and the number of tables and chairs. He stated as other premises do not have tables and chairs outside, so why would this be necessary, in such as busy highstreets on a Tudor style street.

Mr Pilbrow explained that as he understood it that was a matter for the highways department. He noted that he may take the A boards away or put them out around the tables.

The Chairman thanked everyone and as there were no further questions the Committee adjourned 12:26pm so that the Committee could deliberate.

The meeting resumed at 12:55pm.

The revised conditions agreed by the Committee were handed out and read by the Chairman.

### **Resolved**

The application for a Premises Licence be approved, subject to the following conditions:

1. If tables and chairs are positioned outside, then Windbreaker/partitions will need to be installed to enclose and clearly delineate the licenced area
2. When the outside area is no longer in use for licensable activity all unsecured tables, chairs and associated furniture shall be removed from the outside area and secured.
3. There shall be no vertical drinking outside of the premises.
4. The outside area will only be used by customers who are seated at tables. For the avoidance of doubt, there will be no consumption of alcohol by customers who are standing in the outside area.

The meeting finished at 12.55 pm

Chairman