

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing
Committee
held on Tuesday, 7th September, 2021
from 10.00 am - 12.00 pm**

Present: Councillors: N Webster (Chairman)
G Allen
S Smith

Officers in attendance: Fiona Spears, Environmental Health Enforcement Officer
Michael Bateman, Team Leader for Environmental Health
Nick Bennett, Senior Environmental Health Officer
Alison Hammond, Democratic Services Officer

Also in attendance: Mr Mevlit, Applicant
Mr A Mevlit, (DPS for Applicant)
Miss Mevlit
Mr Berry, Agent for the Applicant

LS.1 ROLL CALL AND VIRTUAL MEETING EXPLANATION.

The Chairman welcomed everyone to the meeting and introduced each member of the Panel to the participants.

Franca Currall, Solicitor explained the virtual meeting procedure. She advised that no decision will be given at the end of this meeting. The decision will be made within 5 working days of the meeting. A letter will be sent to all the participants and any other parties who made written representations but did not attend the meeting. The letter will set out the Members decision with reasons for it and will also contain details of how to make an appeal against that decision.

LS.2 TO RECEIVE APOLOGIES FOR ABSENCE.

None.

LS.3 TO RECEIVE DECLARATION OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

LS.4 TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 9 APRIL 2021.

The minutes of the meeting held on 9 April 2021 were agreed as a correct record and were electronically signed by the Chairman.

LS.5 APPLICATION FOR A NEW PREMISES LICENCE.

Introduction and outline of the report

Fiona Spears, Environmental Health Enforcement Officer introduced the report. An application has been made by The Carriage of Crawley Down. Representations were received from the Environmental Health Team, a Responsible Authority and three residents objecting to the application on the grounds of public nuisance. The Committee were asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations. The Carriage, currently trading in Crawley Down took possession of an adjacent property with an outside forecourt. The new premises licence sought to extend the current licensing hours on Fridays, Saturdays and Bank Holidays, and the application was advertised on the premises and in the East Grinstead Courier.

The Committee were advised that a number of complaints were received by the Planning and Environmental Protection Teams; the complaints about odour were not relevant to this application. A number of complaints regarding excessive noise complaints had been received and dealt with. A complaint that the premises had been open longer than permitted was due to a misunderstanding by staff and had been resolved. It was highlighted that the Police had initially raised representations, but these have been satisfied by the agreed conditions.

The Officer highlighted that some information contained in the representations was irrelevant, namely issues of car parking and people driving to The Carriage. She summarised that the main points for objection were that of public nuisance, times of use of the outside forecourt area and excessive noise. A number of conditions, if the licence was approved were listed in appendix 8.

Questions from the Members to the Officer:

Following a question from the Chairman, the Solicitor confirmed that the panel should disregard any comments on issues of odour and parking as they are not relevant to the application. People driving to the premises is also not relevant.

As there were no further questions from the panel, the Chairman invited the Senior Environmental Health Officer to make his representation.

Interested Party - Representation by Nick Bennett

Nick Bennett, Senior Environmental Health Officer noted that that the Environmental Protection Team are a statutory consultee for premises licence applications, and they have great expertise in issues on noise and nuisance. The Team objected on the hours the outside terrace would be used, everything else has been agreed. He highlighted the need to achieve a balance with the residential and business premises. There may be some disturbance if licensed premises are close to residential properties and businesses must make compromises, as supported by case law. He noted the location of The Carriage in the centre of the village, 5 flats above the parade of business premises, other residential properties within 15 to 20 metres and the table chairs to front of the premises and in Old Station Close. A Pavement Licence has been granted for the tables and chairs to the side of the premises, the front patio area is private property and therefore does not require a licence, under current Covid Legislation and complaints have been received for loud music, loud talking, shouting, laughing, and the behaviour of customers under the influence of alcohol. The use of the outside area would be dependent on the weather and voices from the premises were clearly audible on recent recordings made inside nearby residential premises.

The Officer highlighted that the Royal Oak pub, which closed in 2015 had a narrow strip of grass with 3 tables of 4 seats, only 2 complaints were received about live music and non on noise from the pub's customers. The businesses are different, the application for The Carriage had 9 tables on the terrace, the increased number of people will create more noise. The Lombard effect is a recognised phenomenon where the volume of speakers involuntarily increases to be heard over background noise, this has a knock-on effect. The new business is a new source of noise and existing residents have no choice. He noted the measures that could be included in the Applicant's noise management plan, closing windows / doors, and supervision but advised they would not be effective. Door supervisors cannot stop the noise of people socialising and interacting normally. The noise can be controlled though controlling the licensing hours. With the long opening hours and quiet background noise in the evenings the residents will hear the noise every day and it will affect them in the evenings. He highlighted that some premises in the local towns have restrictions which prevent the use of outside space after 9 or 10 pm.

In response to a question from the Chairman the Officer advised that he was not aware if the Lombard effect has been validated in law, but it is a recognised phenomenon and is widely accepted.

The Chairman noted the adverse impact on the economy of the village due to the closure of the Royal Oak, the campaign to reopen the pub and another restaurant located on a residential street in the village.

The Solicitor advised the panel that the application should be considered on its merits, using the information proved by the applicant and the written representations and issues discussed at the meeting. The economic development of the village is irrelevant, and the panel should only consider the licensing objectives in making their decision. The panel should also refer to the Council's policies and section 182 guidance. They must give reasons for their decision, confirm conditions already agreed with the applicant and may add new conditions for the application they consider necessary for the promotion of the Licensing Objectives.

Following a question from a Member the Officer confirmed the hours the applicant had submitted on the new premises licence application.

The Agent for the Applicant addressed the Committee:

Mr Berry, Agent advised that Mr Mevlit's father has operated a coffee shop at East Grinstead's Railway Station for many years, recently rebranded as The Carriage. The business in Crawley Down started in 2020 with additional building works later the same year to provide external seating. This area has been permitted under current Covid legislation. The business had adapted to survive delivering takeaway meals and needs to develop a revised model to survive post Covid. The model is a family friendly café and restaurant. The meals are current prepared in the kitchen at no. 6. He confirmed there would be no further screening of live football games but there would be occasional live music. The neighbours would be advised but it would not disturb them. He highlighted that a planning application has been submitted for no. 12 and the applicant has not accepted the condition to close external seating at 21.30.

The clearing of the external seating area would be detailed in the noise management plan and would operate in a manner sensitive to the neighbours. He suggested that out-door seating will be a feature of towns and villages for some time as many people feel safer and want to sit outside, recent government guidance permits this. He acknowledged some complaints had been received and hoped the number would reduce. The applicant is aware of operating a commercial business in the heart of residential area in a quiet village. The business has been well received by many people in the village. There is a need for a night-time venue since the closure of the Royal Oak. He asked panel to grant the licence for the outside area as per the application.

Questions to the Agent and Applicant:

The Chairman noted that pavement trading areas permitted under Covid legislation would be withdrawn in September 2022 and asked how the business would continue to operate, he also raised questions about the noise of doors slamming. The Agent confirmed the new investment in a kitchen at no. 6 which would be the principal kitchen, the continued use of the old kitchen at no. 12 was yet to be decided. Soft door closures could be fitted to reduce noise and could be added to the noise management plan. The Applicant confirmed the soft closures had already been fitted. He also advised the business employs local people, 13 staff part time and fulltime which includes family members.

The Chairman confirmed he had visited the premises in May, and he had received calls supporting the application. It is popular during the daytime, but the panel must make a balanced decision. In response to a further question the Agent confirmed that a planning application has been submitted to make changes to existing extractor system at no. 6 to reduce odour and more evidence is to be supplied to Environmental Health.

A Member asked if the business was a café, restaurant or bar. The Applicant advised the business adapted to survive during the lockdowns of the pandemic. When certain activities were not possible, due to odours they changed to serving coffee and cake. They have adapted to meet the local need, they cater for breakfast, lunch and à la carte in the evening. He confirmed no. 6 and 12 are not connected and they access each via back doors.

The Agent confirmed the intention was for the external area to be for seated customers only, no standing would be permitted. The Solicitor highlighted that condition 3 from the Environmental Protection Team stated that only seated customers would be permitted outside. The Solicitor, in response to the Chairman's comment that he had been contacted by residents about the premises, commented that it was not unusual in their role as a councillor for people to make contact with them; all councillors attend meetings with an open mind and do not pre-determine the outcome of any applications.

The Chairman confirmed all Members had come to the meeting with an open mind. The application required careful consideration, the panel must consider the impact on neighbouring residents, and must not consider the impact on parking for local residents.

Following a question from a Member the Applicant confirmed they currently use aluminium tables and chairs, it takes 20 – 30 minutes to clear them away and remove any litter. They are looking at solutions to remove the need to move the tables and chairs at the end of each evening.

The Senior Environmental Health Officer confirmed the Environment Protection Team did not seek to prevent the use of the terrace but would prefer an earlier finish time. Noise Management Plans are not very useful at preventing noise from people laughing and talking. Their purpose is to uphold the objective of preventing a public nuisance. He queried an email sent by the Applicant and asked if they would be reliant on external seating. The Applicant confirmed the external seating was essential as the 24 seats inside no. 6 would not cover their costs and staff. He reiterated that the front terrace no longer has standing permitted, there had been one incident during the Euros.

Members queried the average time for customers to eat a two or three course meal, security and if the Designated Premises Supervisor (DPS) would be on site the whole time the business is open. The Applicant advised the average time to eat a meal is approximately 1 hour 45 minutes, customers seated at 8 pm should finish by 10 pm. They are looking at solutions to resolve the recent vandalism and to store the furniture securely outside; this would save time and prevent noise. Aidan Mevlit confirmed he is the DPS and would be on the premises most of the time, there would be a list of people who would also supervise.

Interested Party - Representation by Mrs Williams

The Solicitor read out a further email received from Mrs Williams as she was unable to attend the meeting due to work commitments. She noted there had been a further incident on Friday 3 September where she observed people standing on pavements and roads linked to the premises and at 23.00 there had been loud shouting from the premises.

Further Questions to the Agent and Applicant:

Members asked if the Applicant have security on site, a door person, log-book to record incidents or CCTV. The Applicant advised they have a security firm who provide door staff when it is required, normally at the weekends there is always security present to control customers and noise and they do have CCTV.

In response to questions from the Chairman the Environmental Health Enforcement Officer confirmed the DPS must train other staff to transfer their responsibility for when they are not on site. She stated SIA door supervisors are required and if the License holder identifies they are deemed necessary, a risk assessment is required for events. One SIA is required per 100 people (or part of) at all times with a minimum of two SIA. Depending on the type of premises and event, the use of hi viz and clickers may be required to monitor access to the premises.

The Solicitor suggested the Applicant circulates details of a contact at the premises for residents to complain to when there is a noise. This could be added as a condition if the application is approved. The applicant could also use a WhatsApp group or social media to alert neighbours of up-coming events.

Miss Mevlit advised they didn't know the type of clientele when they first opened, so they had door staff. They are not now as busy, so door staff are no longer required, the clients are mostly families and they have security for busier evenings. Mr Mevlit confirmed the company provide a 24/7 response on days security are not already on site.

The Chairman confirmed the Members and Officers had no further comments or questions.

Summing up by Agent:

The Agent advised a balance approach was needed and they did not agree with the proposed times suggested by the Environmental Protection Team. A finishing time of 22.00 with 30 minutes to clear away strikes the right balance. He noted there had been some complaints, the business had settled down and has adjusted to keep the business going in adverse times. He asked that the Applicant have a chance to run a successful business and said there may be times when residents are unsatisfied. The business is now part of village life, it needs the additional external seating to be profitable and currently people want to sit outside. The Applicant is seeking the decking on permanent basis through a planning application.

The Solicitor advised the public participants that the panel would retire to a private virtual room to deliberate and make a decision today. If the decision took longer they would be advised. To meet legislation the applicant would receive the decision and any reasons within five working days and copies would be sent to all interested parties. Interested Parties would have 21 days to appeal to Brighton Magistrates Court from receipt of the letter.

The Chairman thanked the officers and public participants to the meeting.

As there were no further questions the public meeting finished at 11.26 am so that the Committee could deliberate.

The revised conditions were agreed by the Committee in the closed session.

RESOLVED

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

1. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas including the entrance to the premises and the licensed area/outside patio tables and chairs area. The system shall be on and recording at all times the premises licence is in operation.

The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside and outside the premises at all times.

CCTV footage will be stored for a minimum of 31 days.

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.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

Subject to GDPR 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 (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.

Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

2. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises and any refusals of alcohol. The incident log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a month. The logbook should be kept on the premises and be available for inspection at all times the premises are open by officers of any responsible authority. An incident will be defined as being one which involves an allegation of a criminal offence.
3. Patrons will not be permitted to take drinks in open containers to consume outside on the pavement/public highway beyond the licensed outside tables and chairs area of the premises whilst smoking or otherwise congregating outside of the premises beyond the licensed area.
4. All off sales of alcohol will be made in sealed containers
5. Security Industry Authority (SIA) door supervisors must be deployed at the premises at any time when the licence holder identifies by way of a suitable and sufficient written risk assessment that SIA door supervisors and other security measures are necessary. It must also consider busy periods such as Bank Holidays, Christmas and New Year, Seasonal Variations and other Town Centre Events along with any special events at the premises such as live music, discos, screening of sporting events and other similar functions or entertainment. The risk assessment will also cover any requirement for polycarbonate drinking vessels, ticket only events, entry restrictions and last entry times. The written risk assessment must be available on the premises for inspection by police and authorised officers of the Licensing Authority. This written risk assessment is to be reviewed and updated as necessary and at least annually and must take into account information or guidance offered by the police and the licensing authority.
6. Whenever SIA door supervisors are on duty, they must be provided in accordance with the following:
 - At a ratio of 1 per 100 customers or part thereof, although at all times with a minimum of two;
 - On duty until the premises has closed to the public, licensable activities has ceased and the venue is completely clear of patrons and all customers have dispersed from the immediate area;
 - Must wear clearly marked reflective jacket or tabard in order that they can be readily identifiable;

- Must be equipped with clickers or other device(s) in order that they can accurately measure and ensure that the maximum capacity of the premises is complied with a written record being kept; and
 - Must monitor/supervise any queue of customers waiting to gain access to the premises and ensure that so long as social distancing requirements are in place, that these are complied with both inside and outside the premises.
7. SIA door supervisors shall complete incident logs prior to the end of their shift. Records shall be maintained at the premises containing the full name, date of birth, and SIA badge number of every Door Supervisor. The record shall include all dates and times when a Door Supervisor is employed. If Staff are employed through an agency the name and address of the agency must be included. The Door Supervisor records will be kept at the premises and made immediately available to officers of any responsible authority upon request. Those performing the role of door supervisor shall not perform any other role when engaged for the purpose of door supervision activities.
 8. Door supervisors shall be fully briefed prior to work with clear written instructions regarding their specific duties including an awareness of persons banned from the premises. These records shall be made available to the local licensing authority and/or Sussex Police upon request.
 9. A member of the SIA door staff will monitor the outside smoking area whilst the premises licence is in operation, or until the area has been emptied of patrons at closing time. All SIA registered door supervisors shall wear and operate body worn video cameras with a recording facility. The body worn cameras will be recording all the time the door supervisors are on duty. All recordings shall be stored for a minimum period of 31 days, with date and time stamping. Viewing of recordings shall be made available upon the request of police, or authorised local authority officers, throughout the entire 31 days period. The premises will ensure there are sufficient spare batteries fully charged for the body worn cameras so there is no issue with cameras not recording due to flat batteries.
 10. The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph, photographic military ID or proof of age cards bearing the "PASS" mark hologram
 11. Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises.
 12. The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:
 - The lawful selling of age restricted products
 - Refusing the sale of alcohol to a person who is drunk
 Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed three months, with the date and time of the verbal reinforcement/refresher training documented. All such training undertaken by staff members shall be fully documented and recorded and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request

13. Alcohol deliveries will only be made to a residential or business address and not to a public place. The age verification policy (including challenge 25) shall clearly be advertised at each stage of the order and on all advertising. All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18. Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18
14. At the time the order is placed a declaration will be required from the person placing the order that that person is aged over 18 years of age, and that the intended recipient is over 18 years of age. This process will be documented, (tick box before proceeding, record of verbal acknowledgement or similar). These records must be retained for no less than twelve months and produced on request to an officer of a Responsible Authority.
 - a. For deliveries where the alcohol is delivered by a third party, the alcohol is concealed in a secure sealed package, and the DPS has no direct supervision or control over the delivery (such as an independent courier or Royal Mail), there cannot be an age verification challenge on delivery, but the above conditions will be followed.
 - b. For deliveries made directly by the DPS or their employees, staff or agent or persons instructed by the DPS/PLH, the person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. No ID, no delivery.
 - c. Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the third party only employs delivery employees or agents aged 18 or over; is aware that alcohol is included in the delivery; that the delivery person actively engages with the person receiving delivery and operates a challenge 25 policy rather than just handing the delivery over; that in the event that the recipient of the alcohol is challenged for ID and does not provide appropriate and valid ID, the delivery person will retain the alcohol and return it to the premises.
15. The outside seating area to The Front Carriage will not be used by customers to consume food or drink after 22:00 hours Monday to Sunday.
16. Tables and chairs will only be permitted in the outside area to The Front Carriage in accordance with the layout submitted by the applicant.
17. The outside seating area to The Front Carriage 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.
18. The main entrance doors to The Carriage and to The Front Carriage shall remain closed after 21:30 hours, except when used for access and egress. All other external windows and doors shall also remain closed after 21:30 hours, except when used in the event of an emergency.

19. Display suitable prominent notices close to the exit doors of The Carriage and The Front Carriage, and in the outside area to The Front Carriage, requesting patrons to have regard to neighbours and to leave the premises quickly and quietly.
20. No bottling out activities outside of the following hours: 08:00 to 20:00 hrs Monday to Saturday; 09:00 to 18:00 Sundays and Bank/Public Holidays.
21. The Premises shall only operate once a Noise Management Plan (NMP) has been submitted to and approved in writing by the Environmental Protection Team. The NMP shall comprise measures to control noise from music and customers affecting nearby residents as well as a complaints management procedure. Licensable activities shall thereafter be carried out at all times in accordance with the approved NMP unless any alterations are otherwise first submitted to and approved in writing by the Environmental Protection Team. The NMP shall be reviewed after any significant changes to operation or after any noise complaints are received. If the Environmental Protection Team is satisfied that the NMP is not proving effective this approval may be withdrawn by the Local Authority's Authorised Officer.
22. The details of a mobile telephone number shall be circulated to the properties in the following roads; Old Station Close and Grange Road to the junction with Field Drive, Crawley Down. The telephone number shall also be placed on a sign and displayed on a wall on the Premises where patrons can see this sign.

The meeting finished at 12:00 pm.

Chairman

The meeting finished at 12.00 pm

Chairman