

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-Committee held on Monday, 25 September 2023 at 10.00 am in Council Chamber, Guildhall, Portsmouth.

Present

Councillors Dave Ashmore
Ian Holder
George Fielding

50. Appointment of Chair (AI 1)

Councillor George Fielding was duly appointed as Chair for the meeting.

51. Declarations of Interest (AI 2)

There were no declarations of interest.

52. Licensing Act 2003 - Application for grant of a premises licence - The Hideaway, 161 - 165 Highland Road, Southsea PO4 9EY (AI 3)

The Legal Advisor, Ben Attrill ran through the hearing procedures and noted that those residents who had indicated they wished to speak were formally part of the hearing proceedings and they may expand upon their written representations but may not raise anything new or additional that the applicant had not had the opportunity to address in advance of the hearing.

The Licensing Officer's Report.

The Licensing Officer presented the report the purpose of which was for the Committee to consider an application for the grant of a new premises licence pursuant to section 18 of the Licensing Act 2003 ("the Act"). The matter had been submitted by Chloe Wheeler and referred to the committee for determination following receipt of relevant representations from a small number of local residents and the Ward Councillor.

Member's questions for the Licensing Officer

The Panel asked if there had been any concerns expressed by the Local Police or Environmental Health. The Licensing Officer confirmed there had been no objections from any responsible authority.

Applicant questions for the Licensing Officer

The applicant did not have any questions.

Resident questions for the Licensing Officer

In response to a question, the Licensing Officer advised that Licensing are duty bound to notify ward councillors of applications in their ward but did not know what the ward councillors then do with that information. He did not consider there was an obligation on their part to pass the information on to residents.

Applicant's Case

The applicant presented her case to the panel.

The applicant advised she was the owner of the family run business living locally in Southsea.

The applicant stated she understood the majority of the concerns of local residents and advised that when the licence application was made, the premises were empty and she had not yet signed the lease and did not consider it appropriate, at that time, to knock on doors and start discussing plans whilst the premises were not yet legally hers.

She noted concerns included the premises becoming a nightclub or some form of pub and reassured this was not the case.

She further noted the concerns in relation to the new flats being built on Hellyer Road and Oliver Road resulting in a more built-up area. She understood concerns but stressed this was beyond the scope and control of the application for a premises licence and should not influence the panel's decision.

The Applicant outlined the Hideaway's aims:

- to be a professional and friendly space offering a relaxed and welcoming environment.
- to run as a daytime, dog themed café, initially opening 7am to 6pm with a focus on being a family friendly, community space for all.
- to have adequate room between all tables to ensure there would be space for pushchairs, wheelchairs and comfortable places for customers' dogs to sit.
- to focus on offering services to bring the community together such as exercise classes, support groups and workshops.
- Two separate closed rooms would aim to offer a more stable, frequent service that is limited in the area such as dog grooming and photography room. This may change dependant on demand.
- to provide high speed WiFi to accommodate remote workers, or parents and children doing their homework whilst having a coffee, lunch, drink or snack.

The applicant told the panel that longer opening hours had been applied for to have the option for flexibility in the future in order to host an evening workshop or activity class, a supper club or even a wine tasting with a charcuterie board subject to demand. Seasonal variations could be considered such as a Christmas themed night with a film to watch.

The applicant advised that as the business developed, she would like to consider a dinner restaurant service or social events in the evenings, again subject to demand.

In relation to noise, she asked that the Hideaway be considered entirely separately from the nearby coffee shop that had caused some noise nuisance. She explained that she envisioned The Hideaway as a place

similar to Panero Lounge. Notices would be put up reminding customers to leave in a quiet, orderly manner respecting local residents.

With regard to the outside seating area, this was on private property and could be used at any time, however, with respect to local residents it would be closed by 9pm. There would be a separate smoking area to the left of the entrance, not in close proximity to residents.

A sound insulation report had been received from the Landlord which showed there should be an adequate safety net to prevent any sound travelling above the premises. Further sound proofing measures would be considered such as sound proofing curtains should they be needed.

In relation to fire safety, a comprehensive fire alarm system and equipment had been installed which would be serviced annually and all exit doors kept clear at all times.

Live music would not be any loud heavy metal rock bands and sound levels would be documented in a sound book to check levels at different points of the premises on a one to two hourly basis.

The option to show films had been requested to allow for the flexibility to do so should there be demand. It would not be a normal everyday provision.

The Applicant reassured the panel that the alcohol licence was not to promote drunk and disorderly behaviour. Rather it was to allow customers to have a drink with their meals such as a glass of wine or beer. If someone was found to be breaching the focus of being a safe, community focused café they would be asked to leave and be placed in the refusals book.

Disposal of glass bottles would not occur between 11pm and 7am.

All staff would be trained on their responsibility in relation to the sale of alcohol and to ensure they abided by the licensing objectives. Comprehensive CCTV would be installed, operated and maintained on the premises and would cover all licensable areas.

There would be no irresponsible drink promotions allowed and all staff would be trained on the Challenge 25 policy and acceptable forms of identification.

The Applicant noted there had been no representations from any of the responsible authorities and reassured that there would be no risk to the local area by way of the licensable activities occurring at The Hideaway. She hoped the panel would support the application.

Finally, the Applicant welcomed everyone to visit the café once it was open and see for themselves that it would be a community focused café as stated.

Panel Members' questions to Applicant

In response to questions the Applicant clarified:

- She had been advised to apply for a licence from 8am to have the option - she did not intend to sell alcohol from that early in the morning.
- She would welcome the licence being taken back to 10am as a more suitable time especially if that would give some reassurance to local residents. Complete refusal of the licence, however, would significantly impact on the business.

The licensing officer clarified that Licensing's general advice to applicants is to apply for the longest hours possible in order to save applying for a variation later down the line.

- In relation to live music, it would be during the evenings and would stop at a reasonable hour e.g. 9:30 - 10:00pm and would typically be more towards the weekends.
- Additional sound proofing could be added if required.

Residents' questions to the Applicant

In response to questions the Applicant clarified:

- If there is demand, the plan was to run a restaurant service with alcohol available. There were no plans to open as a pub with just drinks.
- The café / dining area would be restricted in the number of seats to help control footfall. There may also be a yoga class for example, going on in a back room.
- The café may be open till 11pm dependant on demand, which is why the hours have been applied for now to save applying for a variation later.
- 2am closing would be on New Year's Eve. 1am closing would be the bank holidays mainly in the summer of which there are two - one in May and one in August. Should there be other occasions when a later closing time was needed a Temporary Events Notice would be applied for. On those occasions the windows would remain shut, and the door closed to prevent sound travelling. Notices would be put up in the windows to notify of any late events.
- There would be no music or speakers outside the premises.
- Door staff are not required for all licensed venues but for a different type of premises. There would not be a need for door staff as the premise is café with 50 people.

Interested Parties' Case

Local residents presented their case to the panel.

They welcomed the clarification on certain points from the applicant which had allayed some of their fears and concerns. They had no objection to a community based, dog themed café, noting that Highland Road needs some regeneration.

However, they noted the wide-ranging application which had been advertised as a multi-venue café, bar, bistro with dog services and felt the application was quite confused and there was concern that there were no specifics around when live music would be played and when late opening would occur.

Residents voiced concerns that having an 8am opening until late at night with potential for live music and the potential for a large outside seating area was not particularly family friendly and not appropriate for a residential area full of families. Even with closing the outside area at 9pm, this may still impact on residents' ability to put their children to bed in the summer when windows would be open. They noted the noise issues from the premises close by with the sound carrying across the graveyard.

Residents understood the daytime plan for the premises but were concerned about the extended licence to 11pm and requested that consideration be given to the local area and that opening times were suitable to what was being proposed verbally - a daytime café and community space, noting that the opening times in the evening may have a significant impact on the local community.

Residents were concerned about the concept of takeaway drinks and the potential for litter in the area and people drinking coming out of the premises and up the road. Residents considered a main reason the 'off-sales' was included was that it was a very large space to fill, with a high rent and therefore the income required would be substantial.

There was concern about 'mission creep' in that once the premises were open it could eventually change into something other than the initial concept of a café/community space.

The late opening may lead to noise issues impacting on local residents.

There were no questions to the interested parties from the panel members, applicant or Licensing Officer.

The Legal Officer then gave advice on the application before the panel and the decisions that they could take. The application was for the sale of alcohol, which is a licensable activity, along with the exhibition of film. Although live music had been included in the application it need not have been due to the implications of the live music act. He noted that if there had been no licensable activities the premises could open as they wished. He advised that the panel had the legal power to restrict the hours, to grant it in part or in full or to grant those parts they thought appropriate. Any restrictions must be justified on the evidence heard at the meeting.

The Legal Officer reminded the panel on the operation of the Licensing Act, the guidance surrounding it and the strict remedies available should the business not operate in the way it had reassured the panel and residents. He also noted the controls by other statutory bodies such as Environmental Health and the Police.

Summing up by Interested Parties

Residents reiterated their concerns on the late opening hours and considered this needed restricting.

Licensing Officer summing up

The licensing Officer noted that a number of cafés now will apply for alcohol licenses to give their customers the opportunity to have an alcoholic drink as well as the more traditional items. In relation to the off-sales, a lot of venues apply for this to allow those customers purchasing a bottle of wine with their meal, the ability to take home anything they don't consume during the meal.

Applicant Summing up

The Applicant stated she had taken on board all the points raised by residents and reassured that the premises would not be a nightclub. Alcohol sales do not have to continue until 11pm but she would like to have the flexibility to stay open until 11pm should there be the demand. This was a new venture, she had put a lot of time and money into it and wanted to give opportunities for jobs and provide a nice facility in the area.

The Panel retired to make their decision at 11am

The Panel reconvened at 11:51.

Decision

In the matter of: Licensing Act 2003 - Application for a premises licence - The Hideaway, 161-165 Highland Road, Southsea, PO4 9EY.

The Sub Committee has considered very carefully the application for a premises licence at The Hideaway. It gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of licensing policy.

The Sub Committee considered the relevant representations, both written and given orally at the hearing, by all parties. Human rights legislation and the public sector equality duty has been borne in mind whilst making the decision.

The Sub Committee noted that there had been representations from residents and the ward councillor, objecting to the grant of the licence due to concerns (in the main) about the prevention of public nuisance licensing objective. A lack of clarity regarding the potential use of the premises and potential "mission creep" causing concern.

After having heard all of the above evidence the Sub Committee determined to grant the proposed application, subject to imposing the agreed conditions and conditions implementing the operating schedule and noting the amended application as follows (detailed in the report and during the hearing):

- The outside seating area at the premises being closed from 21:00
- Signage to be prominently displayed at the premises asking patrons to respect neighbours
- The hours for the sale of alcohol to be reduced to between 10.00hrs to 22.30hrs (Monday to Sunday) save for bank holidays, Christmas Eve, Christmas Day, Boxing Day and New Year's Eve
- Bottles / bottle bins not to be emptied between 23.00hr and 07.00hrs

Reasons

It was noted that there had been no representations from responsible authorities and accordingly the Sub Committee had to accept the inference that there are no concerns on their part and particularly Environmental Health - given the issues raised by the residents.

Objection from interested parties focussed upon potential noise disturbance from the premises - particularly from live music and patrons leaving the premises. It was stressed that it is located in a residential area with families close by that will be disturbed by late night noise.

The Sub Committee accepted legal advice that parking or issues regarding the amenity of the area are planning considerations and cannot be taken into consideration.

The applicant has reassured the Sub Committee regarding the nature of the proposed operation of the premises with it being a safe, community focussed café with the ability to provide food and alcohol alongside food later as the business develops. There is no intention to run a bar or vertical drinking establishment or to operate as a nightclub. Conditions were offered relating to CCTV, staff training, etc. Music was confirmed during the hearing as to only be provided indoors. Sound proofing had been considered (with current provision providing protection) and additional measures such as tiles to the ceiling or noise curtains have been considered if later proving necessary.

The Sub-Committee noted that there is a right, for all parties, to bring the licence back for review if there are any issues undermining the licensing objectives resulting from the licensable activity at the premises. If nuisance occurs as a result of the application residents are encouraged to liaise with Environmental Health and report the matter promptly. In this respect residents can be reassured that if the premises changes hands or changes the nature of the operation, or indeed fails to implement the steps indicated and this leads to public nuisance, the matter can be brought back to the licensing authority for action to be taken.

The Sub-Committee balanced all of the above issues and determined that in light of the lack of representation from environmental health and the additional steps proposed by the applicant, it was considered appropriate to grant the licence with the timings now applied for and that this balanced the interests of residents with those of the business.

There is a right of appeal for all parties to the Magistrates' Court. Formal notification of the decision will set out that right in full.

The meeting concluded at 11.51 am.

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Chair