

**MINUTES**

of the

**LICENSING COMMITTEE HEARING**

held on 21<sup>st</sup> March 2025 at 11am

Present:

Councillor R. Lee (Chair of Hearing)

Councillors H. Clark, D. Clark and L. Mascot

1. **Apologies for Absence**

No apologies for absence were received.

2. **Declaration of Interests**

All Members were reminded to declare any interests where appropriate in any items of business on the meeting's agenda. None were made.

3. **Minutes**

The minutes of the hearing held on 17<sup>th</sup> December 2024, were approved as a correct record.

4. **Licensing Act 2003 – Application for a New Premises Licence – 129-133 Sunrise Avenue, Chelmsford, CM1 4JW**

The Committee considered an application for a new premises licence made under Section 17 of the Licensing Act 2003 and had regard to the representations made during the consultation period. These related to the promotion of the below Licensing objectives.

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

The Committee were informed that the application had sought one licensable activity, namely the sale or supply of alcohol, Monday to Sunday between 8am and 11pm.

It was noted by the Committee that there were three options namely;

- Grant the application, on the terms and conditions applied for.
- Grant the application, on the terms and conditions applied for, modified to such extent as considered appropriate to promote the licensing objectives.
- Refuse the application in whole or in part.

The below parties attended and took part in the hearing:

- Mr Hopkins – Applicant's Agent
- Mr Koc – Applicant/Designated Premises Supervisor
- Members of the public

Officers informed the Committee that in response to the application, twelve representations had been received from local residents and ward Councillors, but not from any of the responsible authorities. Officers also informed the Committee, that the applicant had since offered to cut back their application so that the sale of alcohol would cease at 10pm every day of the week, along with some additional conditions.

The applicant's agent introduced their application to the Committee. They informed the Committee that the applicant had recently taken on the lease for the three retail units and planned to make them into a convenience store and off licence. The Committee heard that the applicant had extensive experience as a personal licence holder for 20 years and 23 years working in the retail trade, including the sale of alcohol. The Committee heard that the applicant had successfully run a similar shop in Harlow for seven years and had not experienced any issues with the police or licensing team during that time. The Committee heard that the applicant was aware of the residential nature of the surrounding area and noted that they would be the primary customer base and that they wanted to work with local residents.

The Committee heard that in response to issues raised by residents, they had cut back the sale of alcohol to 10pm Monday – Saturday and to 9pm on Sundays, rather than 11pm every day of the week, in addition to offering additional conditions. It was noted that contact had also been made with those who had objected to the application, so the applicant could understand the concerns raised and that they had also held discussions with the local Councillors, who had submitted representations. The Committee were also informed, that some of the concerns raised were planning matters and therefore out of the Committee's scope, including on the wall near the car park for example.

The applicant also highlighted to the Committee, the importance that no responsible authorities had submitted representations against the application, that they felt they had addressed the majority of concerns raised by residents and that they were keen to work with local residents and to fully promote the Licensing Objectives.

The Committee heard from one of the local Councillors, who had submitted a representation, they highlighted a variety of views from residents, including those who wanted the shop and some who had concerns about it. They stated that they were pleased to see the reduction in hours applied for and that they had held constructive conversations with the applicant, who had listened to concerns raised.

The Committee heard from a local resident who had objected to the application, who amplified concerns including, those residents who held concerns but had not submitted representations, the positive representations alluding to crime, the crime data for the nearby area and the benefit of the shop to residents. The Committee also heard from other local residents who had objected, that now appreciated the amendments made by the applicant and looked forward to continuing conversations with the applicant about any future issues where appropriate.

In response to the points raised, the applicant thanked those who had acknowledged their efforts to work with local residents, in reducing the hours applied for and that some of the other points raised were not relevant to the Licensing Objectives and that the premises was not yet open.

In response to questions from members of the Committee, the applicant's agent stated that the fire exit at the back of the premises was covered by CCTV and that they were happy to agree to a voluntary undertaking, to close the premises in line with the sale of alcohol hours, rather than staying open later than those times.

The Committee thanked the attendees and officers for their input and advised that the decision would be made during the deliberation after the meeting. It was noted that due to the remote nature of the meeting, the decision would be circulated to all parties within a few working days via email.

The Committee gave careful consideration to the relevant representations both written and made during the remote hearing.

**RESOLVED** that the Director of Public Places be authorised to grant the application on the terms applied for SUBJECT to the following limitations and additional conditions.

#### **A. Limitations**

1. The sale or supply of alcohol to terminate by no later than 22:00 hours on Mondays to Saturdays.
2. The sale or supply of alcohol to terminate by no later than 21:00 hours on Sundays.

#### **B. Conditions**

1. Except as mentioned in 2 & 3 below, all of the conditions proposed by the applicant in Mr Hopkin's letter attached to his email to the Council of 18 March 2025 (sent at 08:56).
2. The applicant's undertaking to provide and regularly empty a litter bin outside the shop shall have advisory status only. (This is because of enforceability issues.)
3. The applicant's undertaking to close the shop at 22:00 hours daily shall have advisory status only. (This because the Licensing Authority/Licensing Committee has no authority under the Licensing Act 2003 to impose a condition which would restrict opening hours for the sale of non-alcoholic items.)

#### **C. Reasons for Decision**

1. In reaching its decision the Committee gave careful consideration to the application and the relevant representations both written and made in the course of the remote hearing. The Committee also had regard to the current statutory guidance issued under section 182 and Chelmsford City

Council's licensing policy.

2. All decisions on licensing applications must be evidence based.
3. The Committee had given due weight to the fact that there were no objections to the application from any of the Responsible Authorities, whether on the grounds of crime and disorder, public nuisance, public safety or otherwise. In particular, the Committee was bound to give weight to the fact that Essex Police had not objected to the application, nor had they sought to have any conditions attached to the grant of the licence. The section 182 guidance made it clear that Licensing Authorities should look to the police as their main source of advice on crime and disorder (para 2.1).
4. Furthermore, some of the objections included matters or concerns (e.g., whether there was a need for another off-licence outlet in the locality) which were not relevant because they did not relate to any of the four licensing objectives. The Committee could not take these matters into account and, indeed, was expressly required to disregard them by virtue of regulation 19 of The Licensing Act 2003 (Hearings) Regulations.
5. At this point in time there was no evidence before the Committee on which it could properly conclude that, if the licence were to be granted, the prevention of crime and disorder or the public safety or protection of children from harm licensing objectives would be undermined.
6. The Committee did, however, consider that given the residential character of the locality within which the application premises were situated (as opposed to, for example, a city centre location) there were concerns about the potential for noise nuisance if the premises were to be open for the sale of alcohol up to 23:00 hours each day. Although the Committee was required to have due regard to the fact that Environmental Health had not raised any objections to the application, this did not preclude the Committee from assessing the potential for prospective harm and reaching its own conclusions, based on the evidence available and local knowledge. The applicant had, indeed, taken the initiative in this regard and offered to cut back on their application so that the sale of alcohol would cease by 22:00 hours Mondays to Saturdays, and by 21:00 hours on Sundays. The Committee considered this measure to be appropriate for the promotion of the relevant licensing objective.

**Informative:**

The Committee was pleased to note that prior to the hearing the applicant had reached out to and engaged in constructive discussions with local residents who had expressed concerns about the application. The Committee was also encouraged by applicant's statement made during the hearing that they were committed to establishing good working relations with local residents in the future.

5. [Licensing Act 2003 – Application for a New Premises Licence – New World Sound Ltd, Central Park, Parkway, Chelmsford, CM2 0NF](#)

The Committee considered an application for a new premises licence made under Section 17 of the Licensing Act 2003 and had regard to the representations made during the consultation period. These related to the promotion of the below Licensing objectives.

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

The Committee were informed that the application had been for the below licensable activities:

**Provision of Plays, Provision of Films, Provision of Live Music, Provision of Recorded Music and the Provision of Performance of Dance**

Monday 12pm - 6pm, Friday 4pm - 11pm, Sat & Sun 1pm – 10pm

**Supply of Alcohol**

Monday 11am – 6pm, Friday 3pm-11pm, Sat & Sun 12pm - 10pm

It was noted by the Committee that there were three options namely;

- Grant the application, on the terms and conditions applied for
- Grant the application, on the terms and conditions applied for, modified to such extent as considered appropriate to promote the licensing objectives.
- Refuse the application in whole or in part.

The below parties attended and took part in the hearing:

- Mr Kibasi – Consultant
- Mr Newman and Clowser – Applicants
- Mr Mcloghlin – Consultant
- Mr Miller – Acoustics consultant
- Lewis Mould, Public Health and Protection Services Manager, Chelmsford City Council
- Paul Van Damme – Parks and Green Spaces Manager, Chelmsford City Council

Officers informed the Committee that in response to the application two representations had been made by departments at Chelmsford City Council, namely Public Health and Protection Services and the Parks department, which had requested additional conditions and compliance with the 65db noise limit detailed in the Council's Parks and Green Spaces Outside Events Policy 2020.

The Committee heard from the applicant who referenced the two representations and the concern on noise levels, but also pointed out that all of the responsible authorities had supported every other element of the application. They highlighted their extensive experience running similar events across the Country, with no licence

breaches and the benefit of their commercial events, helping to underpin some cultural events that had a funding gap but that could use their facilities. They stated that they wanted to produce events that added to the cultural landscape in Chelmsford and had engaged with the Council departments who had made representations to try and find an agreeable solution. They informed the Committee that they did not believe the 65db limit would create an environment, commercially viable for their event.

The Committee also heard from the applicant's Acoustics consultant. They highlighted an extensive noise management process, that would entail a Noise Management Plan being agreed with the Local Authority and Safety Advisory Group. They stated they would utilise noise monitoring at all nearby sensitive locations, with proactive feedback, low frequency considerations, a published complaints process and a report after the event to seek improvements. They informed the Committee that they required a 75db limit, rather than the 65db set in the policy and highlighted further research that detailed 'annoyance' factors not changing with regard to a 10db increase and that with live music the difference would not be very noticeable. They stated that they did not intend to use the full 75db limit, but wanted it for a worst case scenario with wind in all directions, that may lead to the 75db limit being reached at certain noise receptors. They also summarised target noise levels of 65db before 5pm and then 70db after 5pm. The Committee also heard from a consultant for the applicant, who highlighted the cultural benefits of their application and the collaborative work that had taken place with the Council on assisting with hosting events such as a comedy event which could take place on the Monday, utilising the existing infrastructure.

The Committee heard from the Council's Public Health and Protection Services Manager who had made a representation against the application. They highlighted that it was rare for them to submit a representation, but despite the clear benefit from the event assisting with cultural events, in their professional view they could not accept 75db as an appropriate noise level for the location. They highlighted that the Council's Parks and Green Spaces Outside Events Policy, specifically stated a 65db limit and that Central Park was closely neighboured by residential properties. They referenced their extensive experience of working with noise issues at events throughout Chelmsford and especially with Central Park and visiting residents in the flats who lived nearby to monitor noise levels at other events. They highlighted that they had initially requested a 50db limit in line with other events, but through discussions had increased this to 65db, which would be the highest ever decibel limit for an event in Central Park. They also informed the Committee of the 8 other event days planned in Central Park for 2025 and that the cumulative impact had to be taken into account. They also stated that the difference between 65 and 75db was significant and the location could not be compared with other parks highlighted by the applicant, due to the close proximity of residents.

In response to the points raised, the applicant confirmed that the only proposed condition by Mr Mould, that they did not agree with was the 65db noise limit, but that the other conditions were agreeable to them.

The Committee also heard from the Council's Parks and Green Spaces Manager, who had also made a representation against the application. They informed the Committee that the policy discussed, had been produced in 2020, after thorough review and consultation with colleagues in Public Health and Protection Services.

They stated that the 65db limit had been set, due to previous complaints from residents and that since the introduction the number of complaints had significantly reduced, which in their opinion proved the policy was working.

They highlighted that they were keen to work with event organisers, but not at a 75db noise limit. The Committee also heard that a hire agreement would have to be entered into by the applicants with the Council's Parks Service and that this would not be accepted at a 75db noise limit. They also highlighted their extensive experience assisting with previous events in Chelmsford and noted that levels may be higher in other parks highlighted by the applicant, but their concern remained with the nearby residents to Central Park. They stated that residents had put their trust in the policy and that they felt the proposed 75db noise limit was not acceptable.

In response to the points raised, the applicant stated that they felt an annual review process of the limit could only be held with quantifiable data, which their event would provide, they were happy to have a time specified formal review process for their event and that they wanted to reach a solution. The Committee also heard that the 10db increase, would not be constant, due to the nature of music compared to other noises and the 75db was intended as a safety net to not breach their conditions.

In response to questions from the Committee and their legal advisor it was noted that;

- There had not been a set db level before the introduction of the discussed policy in 2020.
- Noise levels were measured over a 15 minute period and within that time window, the limit could not be exceeded.
- The additional 5db over the intended 65 and 70db was for the whole day, but the applicant was happy to only have the additional 5db after 5pm, so the limit would in affect by 65db until 5pm and 75db afterwards.
- The applicant stated that the perceived doubling of noise between 65 and 75db was difficult to understand and that as music varied in noise levels, dependant on the song for example, it was not always perceived as a doubling of sound levels by those listening.
- The applicant felt that similar parks to Central Park had operated with a 75db limit.
- There were already 8 events held in Central Park, that managed to comply with the 65db limit and to grant a 75db limit, would render the policy unworkable going forward.
- Noise complaints from events in Central Park previously, had been made during the day or at night.

The Committee thanked the attendees and officers for their input and advised that the decision would be made during the deliberation after the meeting. It was noted that due to the remote nature of the meeting, the decision would be circulated to all parties within a few working days via email.

The Committee gave careful consideration to the relevant representations both written and made during the remote hearing.

**RESOLVED** that the Director of Public Places be authorised to grant the application on the terms applied for SUBJECT to the following additional conditions proposed

by the Public Health and Protection Services, Mr Lewis Mould, in his written representation at Appendix D to the Committee report. These conditions included the condition put forward by Mr Mould to the effect that at no time during the event, any rehearsal, or sound check, should the Music Noise Level exceed 65dB(A) at any noise sensitive location.

### Reasons for the Decision

1. In reaching its decision the Committee gave careful consideration to the application and the relevant representations both written and made in the course of the remote hearing. These representations included the Music Noise Level Review report which the applicant submitted by email on 20 March and which Mr Miller referred to in the course of the hearing. The Committee also had regard to the current statutory guidance issued under section 182 and Chelmsford City Council's licensing policy.
2. The Committee considered that it was appropriate for the promotion of the licensing objectives to grant the application, save that the Committee could not agree to the applicant's requirement that the Music Noise Level (MNL) be increased over and above 65 dB(A). This was notwithstanding the applicant's proposal to split event days into two halves: 12 noon to 5.00 pm (65dB(A) MNL); and 5.00 pm to 10.00 pm (70 dB(A) MNL); with a "safety net" MNL of 75 dB(A) throughout the event day just in case unfavourable environmental factors resulted in the MNL being exceeded at any given point in time.
3. The Committee was of the view that the dB(A) increases which the applicant was seeking were significant and that it was likely that residents who lived in close proximity to Central Park would suffer noise nuisance. Central Park, in terms of its characteristics, location and proximity to residential properties, was truly unique. The Committee was not satisfied that Central Park was comparable or "on all fours" with the parks and other open spaces listed in Table 3.1 of the Music Noise Level Review report. The Committee was inclined to give considerable weight to the opinions of Mr Mould and the Council's Parks and Green Spaces Manager, Mr Paul Van Damme, both of whom had many years extensive experience in their respective fields, together with an in depth knowledge of the characteristics of Central Park and its proximity to residential properties.

The meeting closed at 12:48pm

Chair