

LICENSING SUB COMMITTEE - LICENSING ACT 2003

21st August 2023

Present: Councillors Norfolk, Stanley and Udall

Officers: Charlotte Pidgeon, Legal Adviser
Graham Rowberry, Technical Officer
(Licensing)
Graham Chalk, Environmental Health
Practitioner
Julian Pugh, Democratic Services

1 Election of Chair

RESOLVED: That Councillor Udall be appointed Chair.

COUNCILLOR UDALL IN THE CHAIR

2 Declarations of Interest

None.

3 Application for the Grant of a Premises Licence

The Sub-Committee considered an application for grant of a premises licence in respect of Sangers Deli Ltd, Unit 3 Netherton Court, Infirmary Walk, Worcester.

At the start of the meeting, the Chair made the following statement:

"Presentations to the Sub-Committee are not given under oath. However, I would like to remind all parties that the highest standards are expected and any deviation from these high standards could possibly influence any decision of the Sub-Committee."

All parties at the hearing were introduced. The Applicant was represented by Mr Joseph Murcott and the Designated Premises Supervisor (DPS) Ms Delith Morgan.

The Technical Officer (Licensing) presented the report on behalf of Worcestershire Regulatory Services. He explained that the application was for the following:

Activity	Days	From	To	Indoors/Outdoors
Anything of a Similar Description to RE	Everyday	10:00	- 00:30	Both
Performance of Dance	Everyday	10:00	- 00:30	Both
Exhibition of Films	Everyday	10:00	- 00:30	Both
Indoor Sporting Events	Everyday	10:00	- 00:30	Both
Performance of Live Music	Everyday	10:00	- 00:30	Both

Late Night Refreshment	Everyday	10:00	-	00:30	Both
Performance of Plays	Everyday	10:00	-	00:30	Both
Playing of Recorded Music	Everyday	10:00	-	00:30	Both
Sale of Alcohol	Everyday	10:00	-	00:30	

Three representations had been made by Responsible Authorities. Worcestershire Children's Services and Public Health did not object to the application. Worcestershire Regulatory Services Environmental Health had objected to the granting of the licence on the basis that to do so would undermine the prevention of nuisance objective of the Licensing Act 2003 by contributing to existing noise nuisance in the area.

Furthermore, 13 representations had been made by other persons during consultation. These representors objected to the grant of the licence principally on the basis that it would increase existing noise nuisance in the vicinity of the premises late at night.

All parties were offered the opportunity to ask questions of the Technical Officer (Licensing).

Delith Morgan and Joseph Murcott then presented the application. They explained that Delith Morgan stated that, in the light of the representations made, they were willing to amend the application to address neighbour concerns to the following times and activities:

Sunday, Monday, Tuesday:

Activity	From	To	Indoor/Outdoor
Exhibition of films	11:00	22:00	Both
Performance of live music	11:00	22:00	Both
Playing of recorded music	11:00	22:00	Both
Sale of Alcohol	11:00	22:00	Both

Wednesday & Thursday:

Activity	From	To	Indoor/Outdoor
Exhibition of films	11:00	23:00	Both
Performance of live music	11:00	23:00	Both
Playing of recorded music	11:00	23:00	Both
Sale of Alcohol	11:00	23:00	Both

Friday & Saturday

Activity	From	To	Indoor/Outdoor
Exhibition of films	11:00	23:30	Both
Performance of live music	11:00	23:00	Both
Playing of recorded music	11:00	23:30	Both
Sale of Alcohol	11:00	23:30	Both

They were also willing to omit from the application indoor sports, live plays, performance of dance and late night refreshment.

Delith Morgan and Joseph Murcott responded to questions from Sub-Committee Members, Margaret-Ann Stocker, a local resident and representor, and Councillor Lynn Denham, a local Ward Councillor. Delith Morgan clarified that live and recorded music will be indoors and there will be no live performance outdoors. The bi-folding doors may sometimes be open for ventilation purposes but will be closed as soon as the performance finished. The latest finish for live music will be 10pm. Recorded music may continue after that time, but will be at a reasonable volume. She also stated that there had not been any communication with local residents prior to submitting the application. In response to a question about the protection of children from harm, Joseph Murcott stated that attendance at film showings will be via advance booking and the standard age ratings will apply. The venue operates Challenge 25 and age checks may be made on anyone attending a film.

The Sub-Committee proceeded to hear representations from Graham Chalk, Environmental Health Practitioner, Worcestershire Regulatory Services. He explained that Environmental Health had objected to the application on the grounds of the Prevention of Public Nuisance. Local residents had complained about noise levels from the adjacent Arch Rival premises and he played audio recordings which had been made in a nearby residential property when an event was taking place outdoors in The Arches, close to Sangers. He responded to questions from Sub-Committee Members and Councillor Denham. He stated that he wished to avoid the potential for formal action being taken on the grounds of statutory noise nuisance. He advised that an air conditioning system could be installed to avoid the need to open doors.

Margaret-Ann Stocker, a local resident, then made representations to the Sub-Committee. They explained the points that had been made in the representations submitted in response to the application. In summary, the main concern was in relation to the potential for noise beyond midnight. They responded to questions from Sub-Committee Members. She clarified that there had been no communication with local residents by Sangers and would welcome the adoption of a management plan for dealing with local residents' concerns.

Councillor Lynn Denham, on behalf of local residents, also made representations and explained the concerns that had been expressed to her by local residents. She confirmed that she had not had any contact with the Sub-Committee Members or Sangers regarding this application.

Delith Morgan and Joseph Murcott were invited to make their closing remarks. They made several points in response to the comments made by the various parties: they offered to amend the application so as to request live music to 9.30pm; films will be ticketed and they will operate Challenge 25 for such events; customers will be advised to be quiet when leaving and to have respect for neighbours; the access to Netherton Court will not be used for outdoor seating; Arch 38 is a shared space and their portion will be used as a parking area, not for events; they will consider installing a noise limiter, as suggested by the Environmental Health Practitioner.

The Technical Officer (Licensing) then summarized the options open to Sub-Committee members in arriving at their decision:

- (a) Grant the application as requested
- (b) Modify the conditions of the licence, by altering or omitting or adding to them.
- (c) Reject the application in whole or in part.

The Legal Advisor advised Sub-Committee Members that live or recorded music and refreshment between 8am and 11pm is not regulated and a licence is not needed for those activities until 11pm.

The following legal advice was given:

- That the Licensing Objectives must be the paramount consideration.
- That the Sub-Committee may only have regard to the representations which promote the four licensing objectives.
- The Sub-Committee must consider only those matters directly relevant to the premises under consideration and only those matters that fall under the licensing committee's jurisdiction.
- The Sub-Committee must have regard to the s182 Guidance and the Council's statement of licensing policy.
- The Sub-Committee cannot modify or add conditions, or reject the application in whole or part, because it considered it desirable – it must be appropriate, reasonable and necessary to promote the licensing objectives.

All parties with the exception of the Members of the Sub-Committee and representatives of Legal and Democratic Services then withdrew to enable the Sub-Committee to consider its decision.

In reaching a decision, the Sub-Committee had regard to the following:

- The licensing objectives set out on the Licensing Act 2003.
- The Council's Statement of Licensing Policy.
- The guidance issued under section 182 of the Act.
- The Report presented by the Technical Officer, Licensing, Worcestershire Regulatory Services.
- The application and oral representations made at the Hearing by the persons representing the Applicant, namely Mr Joseph Murcott and the Designated Premises Supervisor (DPS) Ms Delith Morgan.

- The written representations, audio recording and oral representation made at the Hearing by the Environmental Health Practitioner, Worcestershire Regulatory Services, and the written and oral representations from other parties.

All parties were recalled and the Chair announced the decision of the Sub-Committee.

RESOLVED: That the Sub-Committee grant the application (as varied by the representatives of the Applicant during the hearing) for a Premises Licence with the following conditions subject to a modification to reduce the times that the licensable activities shall be permitted as outlined in the Schedule, as put forward by the representatives of the Applicant at the Sub-Committee hearing:

1. A noise limiter as approved by Environmental Health shall be fitted and used for recorded music after 23:00.
2. A management plan to be implemented for dealing with complaints, particularly from nearby residents and Ward Councillors who will be provided with contact details to raise concerns.

Schedule - amended application:

Sunday, Monday, Tuesday:

Activity	From	To	Indoor/Outdoor
Exhibition of films	11:00	22:00	Both
Performance of live music	11:00	22:00	Both
Playing of recorded music	11:00	22:00	Both
Sale of Alcohol	11:00	22:00	Both

Wednesday & Thursday:

Activity	From	To	Indoor/Outdoor
Exhibition of films	11:00	23:00	Both
Performance of live music	11:00	23:00	Both
Playing of recorded music	11:00	23:00	Both
Sale of Alcohol	11:00	23:00	Both

Friday & Saturday

Activity	From	To	Indoor/Outdoor
Exhibition of	11:00	23:30	Both

films			
Performance of live music	11:00	23:00	Both
Playing of recorded music	11:00	23:30	Both
Sale of Alcohol	11:00	23:30	Both

The reasons for the Sub-Committee's decision are as follows:

- The Sub-Committee noted and considered the written and oral representations made by and on behalf of the Applicant and the objectors.
- The Sub-Committee noted that there was a history of noise concerns in the vicinity of the premises but not relating to the premises itself.
- The Sub-Committee noted the representations made by the Applicant that they would amend their application to satisfy neighbour concerns to the times and activities listed in the Schedule.
- The Sub-Committee noted the representations made, on behalf of the Applicant, by the new operator of the premises with regards to the business model and operation of the business.
- The Sub-Committee noted the Applicant's amendments to their application by offering a reduction in the closure time from 00:30 hours to 22:00, 23:00 or 23:30 (as detailed in the Schedule) to address the concerns of the objectors and took this as an indication of a willingness to ensure compliance.
- The Sub-Committee noted the Applicant's offer to cease live music at 9.30p.m. to further address the concerns of objectors.
- The Sub-Committee noted that the Environmental Health officer confirmed that the complaints received did not relate to this premises but instead a nearby pub/bar business.
- The representations made by Councillor Lynn Denham and the neighbours were noted although the Sub-Committee was not able to attribute weight to those matters raised which fell outside the Sub-Committee's remit or related to other premises.

Duration of the meeting: 10.00a.m. – 11.20a.m.

Chair at the meeting on
21st August 2023