

Alcohol and Entertainment Licensing Sub-Committee

Date and Time: Thursday 22<sup>nd</sup> November 2018 at 13.30hrs  
Venue: Committee Room 2, East Pallant House, Chichester District Council, East Pallant,  
West Sussex, PO19 1TY

**Application for a PREMISES LICENCE**

**S3K Limited  
Priory Park  
Priory Lane  
Chichester  
West Sussex**

**1. RECOMMENDATIONS**

- 1.1 That the Sub-Committee considers and determines an application made by S3K Limited for a Premises Licence at the above location.**
- 1.2 If the determination is to grant a Premises Licence, to give consideration as to whether it is appropriate to attach conditions to ensure the Licensing Objectives are met.**
- 1.3 The Sub-Committee is to give reasons for its decision.**

**2. REASONS FOR HEARING**

- 2.1** S3K Limited of 2 Dukes Court, Bognor Road, Chichester, West Sussex, PO19 8FX has submitted an application for a time limited Premises Licence for the period 10<sup>th</sup> November 2018 to 31<sup>st</sup> January 2019. However, during the course of the application being considered and progressing to a hearing, the applicant has since confirmed that they are now seeking a Premises Licence to have effect between 24<sup>th</sup> November 2018 and 6<sup>th</sup> January 2019 inclusive. S3K Limited are proposing to carry on a business which involves the use of part of the premises known as Priory Park for licensable activities in connection with the provision of a temporary ice rink over the festive period. The application has attracted 54 relevant representations, the vast majority of which were from residents living in close proximity to Priory Park in opposition. There was a single supportive comment submitted by a local resident in connection with the application.
- 2.2** Four Responsible Authorities under the Licensing Act 2003 (the 'Act') namely Chief Officer of Sussex Police, Director of Public Health (West Sussex County Council), Environmental Protection Team of Chichester District Council and the Local Planning

Authority also submitted representations in opposition to the original application. These four representations are captured in the total number referred to above i.e. 54.

- 2.3** It is important to note at the time of compiling this report extensive mediation has been entered into by the applicant in particular with both Sussex Police and Environmental Protection (Environmental Health) in their respective roles as Responsible Authorities. As a result, a number of conditions and changes to the original application have been proposed and agreed in principle between the applicant and these Responsible Authorities.

### **3. BACKGROUND**

Included in this report are the following attachments:

- 3.1 Copy of the Alcohol and Entertainment Licensing Sub-Committee Protocol and Procedure.
- 3.2 A plan depicting the local area showing the location of representors (except for Responsible Authorities) in relation to the application site. **(Attachment A)**.
- 3.3 A copy of the Premises Licence application (application form, original site plan and Designated Premises Supervisor consent form) (18/01985/LAPRE). **(Attachment B)**
- 3.4 Copy of relevant representations and where applicable successful mediation. **(Attachment C)**
- 3.5 Copy of proposed conditions between Sussex Police and the applicant. **(Attachment D)**
- 3.6 A plan depicting premises currently benefitting from a Premises Licence in the Chichester North Ward including the location of representors (except for Responsible Authorities) **(Attachment E)**
- 3.7 Redacted copy of Event Management Plan with updated illustration of proposed application site **(Attachment F)**
- 3.8 Noise Management Plan **(Attachment G)**

### **4 SUMMARY OF THE PREMISES LICENCE APPLICATION**

- 4.1 A copy of the application is reproduced in full at Attachment B.
- 4.2 S3K Limited, the applicant, submitted a valid application on 12<sup>th</sup> October 2018. As part of the application process statutory public notices were displayed at the application site during the representation period, which ran until 9<sup>th</sup> November 2018 and a suitable advert was published in the Chichester Observer on Thursday 18<sup>th</sup> October 2018.
- 4.3 S3K Limited stated in the application that the description of the premises proposed to be used is:

*Annual installation and removal of temporary structures with ancillary food, drink and music uses relating to use as ice rink. Premises (as outlined [red] on accompanying plan) currently Park/Amenity land would be secured as per the boundary detailing the licensable*

The application is seeking a number of Licensable Activities, including the 'supply of alcohol' for consumption 'on' the premises. All other activities and forms of regulated entertainment are summarised in the table below.

<b>Application seeking</b>	<b>Standard days, timings and non-standard standard timings being applied for</b>
'Supply of alcohol'  (for consumption 'on' the premises)	<b>Monday to Thursday 10.00 – 20.30</b> <b>Friday, Saturday &amp; Sunday 09.00 – 22.00</b>  <b>Non-Standard Timing or Seasonal variation</b> <b>Christmas Eve 09.00 – 23.30</b> <b>New Year's Eve 09.00 – 01.00</b>
Live Music (e) (indoors and outdoors)	<b>Christmas Eve 09.00 – 23.30</b> <b>New Year's Eve 09.00 – 01.00</b>
Recorded Music (f) (indoors and outdoors)	<b>Monday to Thursday 10.00 – 20.30</b> <b>Friday, Saturday &amp; Sunday 09.00 – 22.00</b>  <b>Non-Standard Timing or Seasonal variation</b> <b>Christmas Eve 09.00 – 23.30</b> <b>New Year's Eve 09.00 – 01.00</b>
Provision of Late Night Refreshment (i) (indoors and outdoors)	<b>Non-Standard Timing or Seasonal variation</b> <b>Christmas Eve 23.00 – 23.30</b> <b>New Year's Eve 23.00 – 01.00</b>
Opening hours to the public	<b>Everyday</b> <b>10.00 – 22.30 (actually require start time of 09.00)</b>  <b>Non-Standard Timing or Seasonal variation</b> <b>Christmas Eve 10.00 – 23.30 (actually require start time of 09.00)</b> <b>New Year's Eve 10.00 – 01.00 (actually require start time of 09.00)</b>

- 4.4 The applicant provided limited additional information in their Operating Schedule as to how they intended to promote all four of the Licensing Objectives (shown at Attachment B). Where appropriate these suggested steps would be translated into conditions if the application is successful and a Premises Licence granted. It is important to note that the applicant has also provided to the Licensing Authority a comprehensive updated Event Management Plan (which has been redacted in part) and Noise Management Plan both of which are included at Attachment F and Attachment G respectively.
- 4.5 It is confirmed in the application at Section K that no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises as an ice rink that may give rise to concern in respect of children are intended to be undertaken.
- 4.6 Charles Edward White was nominated and consented to be the proposed Designated Premises Supervisor.. Mr White has now been granted a Personal Licence by this Licensing Authority.

## **5 THE PROCESS AND PROMOTION OF LICENSING OBJECTIVES**

5.1 The legislation provides clear focus on the promotion of four licensing objectives which must be addressed when licensing functions are undertaken. The licensing objectives are:

- The prevention of crime and disorder,
- Public safety,
- The prevention of public nuisance, and
- The protection of children from harm.

5.2 In carrying out its licensing functions, the Licensing Authority must also have regard to its current Statement of Licensing Policy 2016 – 2021 and Guidance published by the Home Office (April 2018) along with the relevant matters raised in the representation(s).

## **6 RELEVANT REPRESENTATION(S)**

- 6.1 A representation is “relevant” if it relates to the likely effect of the grant of the Licence on the promotion of at least one of the Licensing Objectives. Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.
- 6.2 It is important to note that a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.
- 6.3 The current Statutory Guidance (April 2018) published by the Home Office states that it is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. A

subsequent Hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. As a Licensing Authority we have provided advice and a template on our website about how any person can make representations.

- 6.4 As set out at Section 2.1 and 2.2 above, the application attracted 54 representations including those of four Responsible Authorities which have been subject of extensive mediation along with one supportive comment. In view of the volume of representations from local residents a summary has not been attempted therefore in order to avoid any doubt all such representations are included in their original format at Attachment C.
- 6.5 However, in response to the statement made by many of the representors that the location of the applications site is in a “wholly residential” area this Licensing Authority, in an effort to assist today’s proceedings has produced an illustration identifying the location of the local residents points of representation (addresses) in relation to the proposed application site and current granted Premises Licences in the Chichester North Ward - the location of Priory Park. Naturally the location of the Responsible Authorities is not referenced. At the time of compiling this report Chichester North Ward consists of 39 licensed premises. This is included at Attachment E.
- 6.6 Sussex Police expressed a number of concerns that granting a Premises Licence in its proposed form would undermine at least of one the Licensing Objectives. They felt that the information provided by the applicant was insufficient to allow their proper consideration. As referred to above, mediation was therefore entered into between the parties with an agreement in principle being achieved. In order to assist, this Licensing Authority has produced the document shown at Attachment D which summaries this agreement albeit it subject to Sub-Committee approval or not, as the case may be.
- 6.7 The representation submitted by the Director of Public Health at West Sussex County Council, the lead authority for alcohol and drugs misuse, is also included at Attachment C.
- 6.8 The council’s Environmental Protection Team in their role as a Responsible Authority considered that, if granted, the Premises Licence should have an appropriate condition attached to reduce the potential for public nuisance. In particular with regards to the applicants Noise Management Plan extensive advice and discussions have taken place again with this Licensing Authority understanding that an agreement and acceptance of noise controls has been reached. Again such controls would be attached to the Premises Licence, if granted, by way of conditions with the final decision being that of the Sub-Committee.
- 6.9 The applicant, and any person or Responsible Authority that submitted a relevant representation either in support or opposition to the application were sent a statutory Notice of Hearing inviting them to attend the hearing or nominate another person to address the Sub-Committee on their behalf.

## **7 CONSIDERATION**

- 7.1 In reaching its determination the Sub-Committee must take into consideration the four Licensing Objectives, the Council's Statement of Licensing Policy, the current Home Office Guidance and written and/or oral evidence during the hearing
- 7.2 It is very important to note that these are the only matters to be addressed by the Licensing Authority when considering this application. The Licensing Objectives are the only grounds on which representations can be made, and the only grounds on which the Licensing Authority will be able to refuse an application or impose appropriate conditions in addition to mandatory conditions and those proposed by the applicant in their Operating Schedule.
- 7.3 Human Rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol and articles 6 and 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property (holding a licence would be considered a possession). Article 8 relates to the right to respect for private and family life, home and correspondence. Article 6 relates to the right to a fair trial. These are however qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done: -
- Has its basis in law
  - Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim,
  - Is proportionate to the aims being pursued; and,
  - Is related to the prevention of crime or, the protection of public order or health or the protection of the rights and freedoms of others.
- 7.4 The Sub-Committee must consider each application on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 7.5 All applications before the Sub-Committee must be considered against the backdrop of anti-discriminatory legislation, such as the Race Relations Act 1976 as amended 2000, and the Sex Discrimination Act 1975, and also in accordance with the Council's stated policy on Equal Opportunities.
- 7.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from Persons and the Responsible Authorities.
- 7.7 The Sub-Committee are required to give reasons for their decision.

## **8. OPTIONS OPEN TO THE SUB-COMMITTEE**

- 8.1 When considering this application the following options are available to the Sub-Committee:

- a. To grant the Premises Licence, as requested,
- b. To grant the Premises Licence, as requested, with additional conditions appropriate to the promotion of the specific Licensing Objectives on which relevant representations have been received,
- c. Reject the whole or part of the Premises Licence application.

8.2 The Sub-Committee may also:

- d. Grant the Premises Licence but exclude certain licensable activities from the licence,
- e. Grant different conditions to different parts of the premises or to different Licensable Activities.

## **9 BACKGROUND PAPERS**

Licensing Act 2003

Home Office Guidance issued under section 182 of the Licensing Act 2003 (April 2018)

Chichester District Council's Statement of Licensing Policy 2016 - 2021

## **10 ATTACHMENTS**

**Attachment A:** Plan of the local area and location of submitted representations

**Attachment B:** A copy of the complete Premises Licence application (18/01985/LAPRE)

**Attachment C:** Copy of relevant representations and where applicable mediation

**Attachment D:** Licensing Authority interpretation of proposed conditions agreed in principle between Sussex Police and the applicant

**Attachment E:** Plan depicting current issued licensed premises in Chichester North Ward in relation to location of representors (not including Responsible Authorities)

**Attachment F:** Redacted copy of Event Management Plan with updated illustration of proposed application site.

**Attachment G:** Noise Management Plan

**Contact:** Mr L Foord  
Divisional Manager  
Communications, Licensing & Events  
[lfoord@chichester.gov.uk](mailto:lfoord@chichester.gov.uk)  
01243 534742