

Alcohol and Entertainment Licensing Sub-Committee

Date and Time: Tuesday 17th January 2017 at 2.30pm
Venue: Committee Room 2, Chichester District Council, East Pallant House, East Pallant,
Chichester, West Sussex

Application for a PREMISES LICENCE

'The Quarterdeck Cafe'
The Street
Itchenor
Chichester
West Sussex
PO20 7AE

1. RECOMMENDATIONS

- 1.1 That the Sub-Committee considers and determines the application from Mr Timothy Sturton-Davies for a Premises Licence.
- 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 The Premises Licence application submitted by Mr Timothy Sturton-Davies has been the subject of 52 (fifty two) relevant representations. The representations were received from members of the public living within the local community and from others further afield. The only Responsible Authority under the Licensing Act 2003 (the 'Act') to submit a representation in opposition to the application, although in principle this has been resolved through successful mediation with the applicant, was Sussex Police.

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, application site and location of representors (where appropriate). (**Attachment A**).

- 3.3 A copy of the original plan submitted with the application which was superseded by a more detailed drawing depicting the layout of the proposed licensed premises. **(Attachment B)**
- 3.4 A copy of the Premises Licence application (16/01901/LAPRE). **(Attachment C)**
- 3.5 Copy of original relevant representations and where applicable successful mediation. **(Attachment D)**
- 3.6 Copy of correspondence and drawing submitted by the applicant in response to the representations. **(Attachment E)**

4 SUMMARY OF THE PREMISES LICENCE APPLICATION

- 4.1 A copy of the original Premises Licence application (case reference 16/01901/LAPRE) is reproduced in full at Attachment C.
- 4.2 A valid application was submitted by Mr Timothy Sturton-Davies on 17th November 2016. The statutory public notices were displayed at the application site during the representation period which ran until 15th December 2016. A suitable advert was also published in the Observer newspaper series on Thursday 24th November 2016.
- 4.3 The application seeks a single licensable activity - the ‘supply of alcohol’ for consumption ‘on’ and ‘off’ the premises. There are no other forms of licensable activity being sought i.e. no regulated entertainment and no late night refreshment. Below are the standard days and timings associated with the application along with the proposed hours the premises would be open to the public.

Proposed Licensable Activity	Standard days and timings
J ‘Supply of alcohol’ (consumption ‘on’ & ‘off’ the premises)	Everyday 10.00hrs to 23.00hrs No Non-Standard Timings applied for
L Hours premises are open to the public	Everyday 10.00hrs to 23.30hrs No Non-Standard Timings applied for

- 4.4 When required to give a ‘general description’ of the premises the applicant provided the following statement:

The Quarterdeck is a coffee shop located in Northshore Shipyard in Itchenor. The shop occupies part of the ground floor of the two storey building occupied by Northshore Shipyard Ltd. The surrounding area is mostly the commercial area of the

shipyard. There is minimal residential property nearby, with the nearest property being occupied only on a temporary basis and is currently mostly demolished.

The coffee shop consists of a serving area, incorporating a small 'kitchen' area where sandwiches are prepared. In front of the serving area there is a 21m² coffee shop customer area with capacity for 20 people seated outside, with an additional outside roped off area directly in front of the premises. The roped off area measures 6m x 12m and currently contains a further 32 seats, on picnic benches and garden 'sofa' furniture.

Currently the coffee shop serves a range of hot and cold drinks, with a limited food menu of Panini, cakes and snacks. We would now like to apply for a licence to supply alcohol for consumption on and off the premises to enable us to open for longer hours and maximise the potential of the business, as the requirement for our current menu decreases significantly after 5pm. We would like to increase our food menu and be able to accompany the food with beer, wine or spirits. We would also like to increase of existing hot drinks menu include spirits option for coffees and hot chocolates e.g. Irish coffee, Baileys hot chocolate etc.

4.5 The applicant provided additional information in their Operating Schedule as to how they intend to generally promote all of the Licensing Objectives. These were set out within the original application form at Section 'M' which is reproduced at Attachment C. Where appropriate these suggested steps would be translated into conditions if the application is successful and a Licence granted. The applicant's proposals included, amongst other things, such matters as:

- Installation of internal and external CCTV system
- Think 25 policy
- Clearly displayed notices advising the public of CCTV system in use
- No smoking policy for both internal and external seating areas with a designated area to be set up far enough away from public areas so as not to cause a nuisance
- Acceptance of only ID only if a customer is suspected of being aged <18 years
- Any restrictions on the admittance of patrons will be clearly displayed on signage outside the premises along with reminding customers to respect neighbours
- Lighting will be provided during the hours of darkness for external licensable area (whilst balancing potential nuisance to neighbours)
- Music will generally be restricted to background levels with noise levels being monitored by staff to ensure no disturbance to neighbours
- Liaison will take place with The Ship public house to advise of any individuals who may be acting in a disorderly manner
- Children under the age of 12 will be required to be accompanied by an adult after 21.00hrs

4.6 The applicant is specified as the proposed Designated Premises Supervisor ('DPS') to appear on the Licence, if granted, with Chichester District Council being the issuing Authority as of 12th April 2016.

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 (March 2015) 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 or more of the licensing objectives. The relevant representations received in respect of this application are reproduced in full at Attachment D. It is important to highlight whilst assessing the 52 representations received against this particular application 11 were determined by this Licensing Authority to be in support of the application with the remaining 41 being in opposition albeit the concerns of Sussex Police were resolved, in principle, following successful mediation with the applicant and their requests being incorporated into appropriate conditions on the Licence if granted.

In summary the concerns highlighted, in particular, by members of the public related to three of the four Licensing Objectives;

The prevention of crime and disorder

- *No comments made.*

Public Safety

- *The premises are in the middle of a working boatyard that is generally unlit at night. The advertised approach to the premises is via a narrow, uneven, unlit footpath also unsuitable for use by night*
- *Any activity after nightfall can only be considered as dangerous and create safety issues*
- *There is a material risk of injury resulting from boatyard equipment and hazards*

The prevention of public nuisance

- *There is concern about noise and disturbance*
- *The requested hours would cause a significant nuisance to nearby residents, especially as the inside space is so small and hence the patrons would be mainly outside*

- *The main advertised access route to the premises is down an unlit footpath that bisects a number of gardens. The opportunity for noise and disturbance is therefore very significant and will carry further across the water.*

The protection of children from harm

- A third licensed premises in the village would be of concern
- *Children make frequent use of the footpath running past the premises. The outdoor nature of the premises and the lack of any barriers therefore expose children in an uncontrolled way.*
- *The outdoor nature of the premises and the lack of any barriers therefore expose children in an uncontrolled way to the presence and temptation of alcohol whilst away from the direct supervision of parents.*

6.2 A representor also specifically referred to an extract from the Chichester Harbour AONB Management Plan (2014 – 2019) and believes the application is inconsistent with this special quality.

6.3 In addition to the above comments the Licensing Authority also received a number of representations in support of the application. Below are extracts from such positive comments:

- *Valuable asset to the Village. It is frequented by residents and visitors alike importantly, it provides a useful amenity for visitors to Chichester Harbour. Many boatyards in Chichester Harbour have coffee shops or cafes. Some are licensed. It seems entirely appropriate to allow a license to the Quarterdeck as well.*
- *an excellent new addition to the facilities in Itchenor ...offers a popular range of food and drink for residents and visitors...run in an exemplary manner by the owner ... Itchenor already has a sailing club and pub both of which are licensed ...the cafe is open only during daytime hours and I do not foresee any problem of unsocial drinking whatsoever.*
- *...moved to the village a year ago ... valuable asset to this Village ... I feel safe and The Quaterdeck would be a perfect place to have a licence ... Other boatyards nearby have cafes that are licensed which it has worked well and the visitors have increased ... bringing new people and helping a local business in our village.*
- *welcome addition to the shipyard over the last year ... asset to both our on-site tenants at Northshore, visitors to the area and particularly to our own customers of the shipyard ... fantastic facility ... offering a range of good quality food and drink ... addition of a premises license will increasing what is on offer to the customers of the shipyard ... asset to boat owners bringing their boats ashore at the shipyard and will help to encourage more business for the shipyard itself ... Public access to the Quarterdeck is available via the main entrance to the shipyard and permitted for customers of the Quarterdeck as it is to customers of all of our onsite tenants.*

- 6.4 It is worthy of note that the current Home Office guidance (March 2015) at Chapter 9 paragraph 9.4 states there is no requirement for a representor (any person or Responsible Authority) to “*produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.*”
- 6.5 The Guidance also states the following in relation to “*other persons*” who are entitled play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant of premises licences regardless of their geographic proximity to the premises. However, any such representations made by these persons must be ‘relevant’, in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. Chapter 9 of the Guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous, vexatious and repetitious representations.
- 6.6 As referred to above Sussex Police entered into successful mediation with the applicant and subject to certain conditions being applied to the Premises Licence, if granted, their concerns were addressed. Their representation is included in full at Attachment D along with, where applicable, the outcome of successful mediation.
- 6.7 Included at Attachment E is a copy of correspondence received by the Licensing Authority from the applicant dated 3rd January 2017 in an attempt to address the main points raised in the objections.
- 6.8 All those that made relevant representation(s) were sent the Notice of Hearing, along with the applicant, inviting them to attend 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 for a Premises Licence 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 (March 2015)

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

10 **ATTACHMENTS**

- Attachment A Plan of the local area, application site and representations (where appropriate)
- Attachment B Copy of the original plan and an updated version (dated 16/12/16) depicting proposed layout of the premises
- Attachment C Copy of the original application (16/01901/LAPRE)
- Attachment D Copy of original representations/outcome of mediation
- Attachment E Additional information provided by applicant (dated 03/01/17)

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