

Alcohol and Entertainment Licensing Sub-Committee

Date and Time: Tuesday 8th August 2017 at 2.30pm
Venue: Committee Room 2, East Pallant House, Chichester District Council, East Pallant,
West Sussex, PO19 1TY

Application for a PREMISES LICENCE

Boston Tea Party
The Corn Exchange
Baffins Lane
Chichester
West Sussex
PO19 1UD

1. RECOMMENDATIONS

- 1.1 That the Sub-Committee considers and determines an application made by Boston Tea Party Group Limited 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 Boston Tea Party Group Limited of 75 Park Street, Bristol, BS1 5PF has been the subject of seventeen (17) relevant representations from residents living within close proximity to the application site. No Responsible Authority under the Licensing Act 2003 (the 'Act') submitted a representation in opposition to this application. The representations remain unresolved.

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 and application site in relation to the representations received by the Licensing Authority. **(Attachment A)**.

- 3.3 A copy of the Premises Licence application (17/00717/LAPRE). **(Attachment B)**
- 3.4 Copy of relevant representations and where applicable successful mediation. **(Attachment C)**
- 3.5 Copy of the 'Residents Pack' produced by the applicant. **(Attachment D)**

4 SUMMARY OF THE PREMISES LICENCE APPLICATION

- 4.1 A copy of the application is reproduced in full at Attachment B.
- 4.2 Boston Tea Party Group Limited, the applicant, submitted a valid application on 15th May 2017. As part of the application process statutory public notices were displayed at the premises during the representation period, which ran until 12th June 2017, and a suitable advert was published in the Observer newspaper series on 18th May 2017.
- 4.3 The nature of the premises is simply described as a café by the applicant with a potential maximum of approximately 150 covers providing a '*substantial food offer*'. The original application was seeking one licensable activity, the 'supply of alcohol' for consumption '*on*' and '*off*' the premises. No forms of regulated entertainment i.e. live or recorded music etc. were applied for. Below is a table illustrating the standard days and timings associated with the original application along with the proposed hours the premises would be open to the public.

Application seeking	Standard days, timings and non-standard standard timings being applied for
'Sale by Retail of alcohol' (for consumption ' <i>on</i> ' and ' <i>off</i> ' the premises)	Everyday 1100 - 1930 No Non-Standard Timing or Seasonal variations
Hours premises are open to the public	Everyday 0700 – 1930 No Non-Standard Timing or Seasonal variations

- 4.4 The applicant provided additional information in their Operating Schedule as to how they intended to promote all four of the Licensing Objectives as a result of the application (shown at Attachment B). 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:

- CCTV system to be installed to the satisfaction of the Police and Licensing Authority

- CCTV system to continuously record during trading hours and one hour afterwards.
- The premises will operate as a café with a substantial food offer.
- The requirement for the DPS or in his/her absence another responsible person to maintain an 'incident/refusals' logbook.
- Signage requesting patrons to be considerate to neighbours should be conspicuously displayed inside and outside the premises (entrances/exits).
- All staff to be trained to a level commensurate with their role in the prevention of underage sales (alcohol).
- The implementation of a 'Challenge 21' scheme whereby only photographic ID will be accepted as proof of age.
- Signage notifying customers of the active 'Challenge 21' scheme shall be displayed at the premises.

4.5 Mr Duncan Zvonek-Little has been nominated as the proposed Designated Premises Supervisor and has been an active Personal Licence holder with the London Borough of Camden since August 2005 with no reported incidents.

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 2017) 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 seventeen representations received in respect of this application and where applicable, the outcome of successful mediation, are reproduced in full at Attachments C and D.

6.2 It is considered appropriate to highlight that no Responsible Authority under the Licensing Act 2003 has submitted a representation in opposition to this application. Sussex Police agreed a condition in principle to be added to the Premises Licence, if granted, with the applicant early in the process regarding the training of staff.

6.2 This Licensing Authority is aware that a significant area of discussion between the applicant's agent and local residents centred on planning. Again it is important to highlight that it has been made clear to all parties that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency as stated in the current Home Office guidance whilst

recognising the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing Sub-Committees are not bound by decisions made by a planning committee, and vice versa.

6.3 There are circumstances when as a condition of planning a terminal hour may be set for the use of premises for commercial purposes. Where these hours are different to granted licensing hours, an applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

6.4 The applicant has taken on board the comments made by local residents and as part of the mediation process circulated a 'Residents Pack' (Attachment D) which proposed amendments to their client's original application and offered a further condition in relation to delivery arrangements at the premises. For ease these are reproduced below.

- **Reduce the hours for the sale of alcohol from between 11am and 7.30pm to between 11am and 7pm. This allows for a 30 minute period after last sales of alcohol to ensure customers and staff are off the premises in line with the planning permission.**
- **Remove the permission for 'off sales' (this is defined as the sale of alcohol in closed container to be taken away from the premises).**

Add a condition mirroring the planning permission in relation to deliveries.

- **No deliveries shall be taken to or dispatched from the premises outside of the hours of 07.00hrs to 08.00hrs and 09.00hrs to 19.30hrs Monday to Saturday nor at any times on Sunday, Bank or Public Holidays. All loading and deliveries to the site shall take place from the loading bay on Baffins Lane, in accordance with the Service Management Plan.**

6.5 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 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 2017)

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

10 **ATTACHMENTS**

Attachment A: Plan of the local area and application site

Attachment B: A copy of the Premises Licence application (17/00717/LAPRE)

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

Attachment D: Copy of the 'Residents Pack' provided to residents by applicant's agent

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