

REPORT TO LICENSING SUB-COMMITTEE FOLLOWING RECEIPT OF A REPRESENTATION IN RELATION TO AN APPLICATION MADE UNDER THE LICENSING ACT 2003 FOR EMERSON GRANGE IN HEXTABLE - 18/00376/LAPRE.

Licensing Sub-Committee - 4 July 2018

Report of Chief Officer, Environmental and Operational Services -
Richard Wilson

Status For Decision

Key Decision No

Executive Summary: This report provides information to advise members of a new premises licence under The Licensing Act 2003 in respect of Emerson Grange, Cinnamon Care Collection, Rowhill Road, Hextable, Kent. BR8 7RL

Contact Officer Jessica Foley, Ext. 7480

Recommendation to Licensing Sub-Committee:

Options available to members are:

- a) To grant the application in full on the terms and conditions contained in the operating schedule along with relevant mandatory conditions
 - b) To grant the application, modified to such an extent as considered appropriate in order to satisfy any relevant representations so as to adequately promote the licensing objectives
 - c) To exclude from the scope of the licence any of the licensable activities
 - d) To refuse to specify a person in the licence as the premises supervisor
 - e) To refuse the application in its entirety
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Reason for recommendation: Each application must be considered on its individual merits and in relation to the licensing objectives under the Licensing Act 2003. Members are asked to consider the options above in light of the individual circumstances of this application and representations and testimony received at hearing.

Introduction and Background

- 1 The procedure for Hearings of Sub-Committees of the Licensing Committee established in accordance with Section 9 of the Licensing Act 2003 is attached to the agenda.
- 2 On 06 February 2018 a premises licence application was received from Hextable Care Limited for a new premises licence for Emerson Grange, Cinnamon Care Collection, Rowhill Road, Hextable, Kent. BR8 7RL. This application was validated on 20 April 2018 and the consultation end date was the 10 June 2018.
- 3 1 representation has been received from a local resident that has not been withdrawn. (Appendix C)
- 4 This is a new premises licence application from an applicant that has not had a Premises Licence or any Temporary Event Notices (TENs) previously.
- 5 The Buildings consist of two small blocks of apartments. Block one housing 23 apartments and block two housing 18 apartments. The main home also has 5 apartments attached to the ground floor.
- 6 The care home consists of 85 assisted rooms providing care over four floors, with 15 rooms on the third floor, 35 rooms on the second floor and 35 on the first floor.
- 7 On each of these floors are separate dining and lounge facilities, the ground floor is made up of a reception, a club room for apartment owners, a bar area with large TV, hairdressers, gym and cinema. In addition to this there are two large garden areas one attached to the ground floor bar area and second attached to the first floor lounge area.
- 8 The application is to licence the complete main building and attached rear gardens only. This is to enable the premises to supply residents and guests with drinks during meals and in the lounge and garden areas at other times. All shown on the plan. (Appendix A)
- 9 Application is to allow the following licensable activities on the premises.

The application is to:

Section A	To allow the performance of plays both indoors and outdoors everyday from 10:00 to 23:00 hours. On New Year's Eve from 10:00 until 00:30 on New Year's Day.
Section E	To allow Live music both indoors and outdoors everyday from 10:00 to 23:00 hours. On New Year's Eve from 10:00 until 00:30 on New Year's Day.

Section F	To allow recorded music both indoors and outdoors everyday from 10:00 to 23:00 hours. On New Year's Eve from 10:00 until 00:30 on New Year's Day.
Section G	To allow performance of dance both indoors and outdoors everyday from 10:00 to 23:00 hours. On New Year's Eve from 10:00 until 00:30 on New Year's Day.
Section M	To allow the supply of alcohol for consumption on the premises everyday from 10:00 to 23:00 hours. On New Year's Eve from 10:00 until 00:30 on New Year's Day.
Section O	To allow the premises to be open to the public everyday from 00:00 to 00:00 hours.

The applicant intends to take the actions detailed in the operating schedule (Appendix B) in order to promote the four licensing objectives detailed below if the proposed application is granted.

Statutory Guidance

Revised Section 182 Guidance (April 2017)

Licensing objectives and aims

Paragraph 1.2

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

Paragraph 1.3

The licensing objectives are:

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

Paragraph 1.4

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

Consultation

The regulations to the Licensing Act 2003 outline the requirements for the advertising of applications. These require the applicant to advertise the application:

- a. For a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority to display a white notice prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises. It was noted that the notice was displayed upon the premises for the 28 day consultation period which ended 6 July 2017.
- b. By publishing a notice in a local newspaper on at least one occasion within 10 working days of submitting the application.

Regulations also require that the applicant give a copy of the application to each responsible authority on the same day as the day upon which it is given to the licensing authority. As the application was electronic, the requirement to serve the application was met by the licensing authority.

There are no other statutory requirements for advertising of any application, however, details of all applications received along with the time limit for receipt of representations is posted on the Council website via the weekly premises tracker and the public and councillors have public access.

Representations received from statutory consultees:

Fire Safety	NO COMMENTS RECEIVED
Trading Standards	NO COMMENTS RECEIVED
Social Service	NO COMMENTS RECEIVED
Police	NO OBJECTIONS
Environmental Health and Safety	NO OBJECTIONS
Public Health Department	NO COMMENTS RECEIVED
Environmental Protection	NO OBJECTIONS
Development Control	NO OBJECTIONS

Representations received from interested parties:

1 received from Local resident (Appendix C).

Conclusions

Without prejudice, the Officer would like to draw Members' attention to issues that they may wish to consider.

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Amended Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from the Policy or Guidance the departure must be directed at the Licensing Objectives and such departure must be supported by clear and cogent reasons

Mandatory conditions - the following conditions will be added to the premises licence when it is issued.

1. The supply of alcohol

- Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

2. Mandatory conditions in force from 28 May 2014

- 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2. For the purposes of the condition set out in paragraph 1-
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula— $P = D + (D \times V)$
where -
 - (i) P is the permitted price,

- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

3. Mandatory Conditions in force from 01 October 2014

- 1.
- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 3.
- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy)

to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

4. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

Operating Schedule conditions

1. During the day the Premises Reception will be staffed, All visitors must sign in at all times, at other times when the reception is not staffed the main doors will be set to exit only, Access will then only be granted by using the front door bell and credentials checked prior to access, Family members and residents will be issued with a coded fob which will allow them access at any time but they will still be required to sign in and out.

2. Training will be given to all staff on the licensing objectives and how they apply to us.

3. Only residents and guests will be served alcohol providing they can prove they are above the age of 18 years. Any one who looks intoxicated will be refused Alcohol drinks of any type.

4. Any person showing signs of being disorderly will be asked to leave, residents will be asked to return to their room or apartment.

5. No live music outside in the gardens beyond 21:00 hours and no live music inside the building beyond 22:30 hours on any day of the year (except New Year's Eve). Doors and windows to be closed after 21:00 hours when music is being played inside to stop any noise traveling to disrupt the public.

6. Any one displaying signs of intoxication or aggressive behaviour will be requested to leave and refused any further alcohol of any sort.

7. Alcohol will only be sold from the main bar situated on the ground floor after 21:00 hours.

8. No Children will be allowed in any area of the home selling alcohol after 21:00 hours.

Key Implications

Financial

None directly arising from this report.

Legal Implications and Risk Assessment Statement.

This Hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Appendices

Appendix A - Plan of the Premises

Appendix B - Application including Operating Schedule

Appendix C - Representation from local resident

Appendix D - Locality maps

Background Papers

The Licensing Act 2003

Richard Wilson

Chief Officer for Environmental & Operational Services