

## LICENSING HEARING

Minutes of the meeting held on 6 February 2020 commencing at 2.00 pm

Present: Cllrs. Dr. Canet, Hunter and Pett

Also Present:	Daniel Dos Santos	Applicant
	Trudy Burgess	Respondent
	Mike Paterson	Respondent
	Simon Jay	Respondent
	Trevor Beeson	Respondent
	Cllr Dickins	Councillor
	Cllr McArthur	Councillor
	David Lagzdins	Legal Advisor (SDC)
	Michael Moss	Licensing Partnership Manager (SDC)
	Charlotte Sinclair	Democratic Services Officer (SDC)

1. Appointment of Chairman

Resolved: That Cllr Pett be elected as Chairman of the meeting.

2. Declarations of interest

There were no additional declarations of interest.

3. Report to Licensing Sub-Committee, following receipt of representations in relation to an application for a new Premises Licence made under The Licensing Act 2003 for Chartwell Barns (The Elms Nursery), Bough Beech Road, Four Elms, Kent TN8 6ND (19/04703/LAPRE)

The Hearing gave consideration to a report by the Chief Officer Planning & Regulatory Services giving details of an application for a new Premises Licence application under the Licensing Act 2003 in respect of Chartwell Barns (The Elms Nursery), Bough Beech Road, Four Elms, Kent TN8 6ND. It was noted that 13 representations had been received but not withdrawn and that accordingly the application had been referred to the Sub-committee for determination.

The Licensing Partnership Manager advised that the applicant had put forward 7 conditions and the Environmental Pollution Team also requested 2 additional conditions should the application be granted. The Hearing was also reminded that under the 2015 deregulations, any premises award to a premises licence which authorised the sale of alcohol, was automatically permitted to provide live and / or recorded music between 08:00 - 23:00hrs which in respect to this application, would authorise the regulated entertainment between 11am to 11pm). The original

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application requested the provision of Late Night Refreshments, however this activity was removed prior to the application being validated. Members were also reminded that planning concerns could not be considered as part of the Licensing Application as there was a different process for dealing with planning and consideration could not be given to the issues raised.

In response to questions the Council's Legal Advisor confirmed that Licensing and Planning were two separate regimes and it was not set out in law which application should be submitted first. If there were breaches of planning or licensing activities then there were processes in each regime to address the problems. Planning considerations were outside of the remit of the Licensing Committee and therefore, by law could not be considered for the determination of the premises licence application.

The Hearing heard from the Applicant, he summarised that the alcohol licence would be to provide a small glass of wine or beer at the restaurant and his target audience within the restaurant was for families, it was not to be a night club or a pub. There would be loudspeakers inside only.

In response to Members' questions the applicant advised that there would not be live music from 8am, but rather background music, and would be happy for the licence to be amended, if granted.

In response to questions from the respondents, the Legal Advisor informed the Hearing that should an alcohol licence be granted then the playing of live or recorded music, as well as background music was not a licensable activity. If there were excessive noise concerns arising from the music then this could be reported to the Council, and a review could be undertaken.

In response to further questions the Applicant responded that there would not be loudspeakers or live amplified music outside. It was not intended that any music would cause a public nuisance and any functions at the premises would be for no more than 50 people, which would be a standard trading day at the premises.

At 2:05 p.m. the Hearing Members withdrew to consider the issues raised, accompanied by the Council's Legal Advisor and Clerk to the Hearing for the purpose of providing advice only.

At 3:15 p.m. the Hearing Members, Council's Legal Advisor and Clerk to the Hearing returned to the Conference room.

The Chairman informed the Hearing that the sub-Committee had had regard to the representations made by the Applicant and interested parties, the Licensing Objectives, the Statutory Guidance issued under Section 182 and the Council's Statement of Licensing Policy. The Chairman moved that the licensing application be granted subject to licensable activities for music to start from 11am and additional conditions.

Resolved: That a Premises Licence in respect of Chartwell Barns (The Elms Nursery), Bough Beech Road, Four Elms, Kent TN8 6ND, subject to licensable

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activities for music to start from 11am, the mandatory and additional conditions contained in the notice of determination attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 3.17 PM

CHAIRMAN



## LICENSING ACT 2003 - Section 23

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### Notice of determination for application premises licence

**To:** Daniel Dos Santos

**of:** Chartwell Barns (the Elms Nursery), Bough Beech Road, Four Elms, Kent TN8 6ND

**Ref:** 19/04703/LAPRE

Sevenoaks District Council being the licensing authority, on the 6 December 2019 received an application for a premises licence in respect of premises known as Chartwell Barns (the Elms Nursery), Bough Beech Road, Four Elms, Kent TN8 6ND

On the 6 February 2020 there being valid representations which were received had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

#### To grant the Premises Licence:

**Section E:** To allow the performance of live music both indoors and outdoors Monday to Saturday from 12:00 to 23:00 hours.

On Sundays from 12:00 until 19:00 hours.

**Section F:** To allow recorded music both indoors and outdoors Monday to Saturday from 11:00 to 23:00 hours.

On Sundays from 11:00 until 19:00 hours.

**Section J:** To allow the supply of alcohol for consumption on the premises from Monday to Saturdays from 11:00 to 23:00 hours.

On Sundays from 11:00 until 19:00 hours.

#### To add the conditions on the Licence as follows:

1. No speakers involved in the transmission of live or recorded amplified music are to be installed to the external decking/ patio area.
2. Deliveries and collections from the restaurant, including refuse and bottle collections, should be restricted to Monday to Saturday 08:00 - 18:00hrs and Sundays 09:00 - 17:00hrs. Outside of these times there shall be no goods loaded or unloaded and no commercial vehicles shall arrive, depart or wait for access to the restaurant.
3. All staff will be made aware of the Licensing Act 2003 and encouraged to conduct themselves in a professional manner when dealing with the sale and consumption of alcohol to customers on and around the premises.
4. Challenge 25 Scheme will be in operation.

5. CCTV will be installed around the premises.
6. The entrance gate to the premises will be closed during non-operative hours.
7. The premises exterior and car park will be illuminated with outdoor lighting.
8. Staff will be required to keep the premises free of litter.
9. Signage displayed asking customers and staff to keep noise to a minimum when entering or leaving the premises.

**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."

This licence granted at the Hearing is effective from the 6 February 2020.

Dated: 6 February 2020

Please address any communications to:

Licensing Partnership

Sevenoaks District Council

Council Offices

PO Box 182

Argyle Road

Sevenoaks

Kent TN13 1GP

**Note:** Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

