

LICENSING HEARING

Minutes of the meeting held on 7 March 2023 commencing at 10.30 am

Present: Cllr. Bonin (Chairman)

Cllrs. Abraham and Waterton

Also Present: Santharaja Pirasath Applicant
(via virtual media link)
Suresh Kanapathi Applicant's Agent
(via virtual media link)

Alexander Jaye Respondant
Jessica Foley Senior Licensing Officer (SDC)
David Lagzdins Legal Advisor (SDC)
Andy Binnie Democratic Services Officer (SDC)

13. Appointment of Chairman

Resolved: That Cllr. Bonin be appointed as Chairman for the meeting.
(Cllr. Bonin in the Chair)

14. Declarations of interest

There were none.

15. LICENSING ACT 2003 NEW APPLICATION - Oak's Wine Mart, 153 High Street, Sevenoaks, Kent. TN13 1XJ

The Chairman welcomed everyone to the Hearing.

The Hearing gave consideration to the report by the Senior Licensing Officer which gave details of an application for a new premises licence for Oak's Wine Mart, 153 High Street, Sevenoaks, Kent. TN13 1XJ. The Senior Licensing Officer provided an overview of the report and explained that five representations had been received from local residents objecting to the proposed premises licence and a letter of support for the representations had been submitted by the Local Ward Member.

The Applicant and his Agent addressed the Hearing. Member's attention was drawn to the tabled document submitted by the Applicant, which set out revised operating schedule conditions in answer to concerns raised by Respondents. The Applicant explained that the location of the store close to the town centre served the needs of local residents and the majority of customers walked to and from the store. The Applicant owned and operated various other businesses including a local petrol filling station which also sold alcohol.

Licensing Hearing - 7 March 2023

In response to questions from the Sub-Committee Members, the Applicant advised that alcohol would be stored in fridges with doors and behind or near to the till and away from the door to prevent shoplifting. The Applicant advised that alcohol sales were refused to approximately three to four customers per day.

In response to concerns raised regarding deliveries to the premises the Applicant clarified that the store was a part of a food delivery scheme which saw occasional delivery drivers collect orders from the premises. As the Applicant bought products from wholesale he did not expect a large number of stock deliveries to the premises. The Legal Advisor clarified that disputes over use of a private accessway to the side of the premises would not be for consideration by the Sub-Committee. In response to a question on waste management, the Applicant also explained that the premises had two large bins for waste and that waste and rubbish was taken to another premises to be disposed of.

In response to questions and concerns around parking provision the Applicant confirmed that there was no designated parking for customers of the store but that the majority of customers walked to and from the store.

The Respondant addressed the Hearing. He explained that he had been a resident and neighbour of the premises for approximately five years and that the previous premises at the location had been a carpet shop. He raised various concerns regarding the proposal for the late night sale of alcohol at the location. The Respondant cited public nuisance and safety concerns over loud anti-social behaviour outside the store late into the night. He explained that there were ongoing anti-social issues with younger people at the Vine. To the rear there were also vulnerable people living in the almshouses. Members noted that the Respondant had submitted supplementary videos in support of his representation which highlighted his concerns. The Sub Committee and Applicant had reviewed this additional exempt information prior to the Hearing.

The Respondant explained that such premises were not suitable in this location. The premises were already disruptive to themselves and those nearby. In response to a question from Members the Respondant explained that other businesses in the area were a very different nature and were open from 09:00 to 17:00 hours and that he would like to see the licensable hours reduced in keeping with other local businesses to prevent public nuisance concerns at the premises late at night.

At 11.29am 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 12:23pm the Hearing Members, Council's Legal Advisor and Clerk to Hearing returned to the Chamber.

The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interested parties, the revised operating schedule conditions tabled at the Hearing, the Licensing objectives, the Statutory Guidance issued under Section 182 of the Act and the Council's

Licensing Hearing - 7 March 2023

Statement of Licensing Policy and, subject to minor amendments in proposed conditions for the purpose of enforceability had decided therefore to grant the premises licence application for the Supply of alcohol for consumption off the premises for the licensable hours:

Sunday to Thursday, 07:00 until 21:00 hours

Friday to Saturday, 07:00 until 22:00 hours

Subject to minor amendments to conditions for enforceability.

A full decision notice would be issued within five working days to all interested parties.

Resolved: That the Premises Licence in respect of Oak's Wine Mart, 153 High Street, Sevenoaks, Kent, TN13 1XJ, subject to the revised operating schedule, mandatory conditions and minor amendments in proposed conditions for the purpose of enforceability, contained in the Notice of Determination as attached as an appendix to these Minutes, be granted.

THE MEETING WAS CONCLUDED AT 12.24 PM

CHAIRMAN

LICENSING ACT 2003 - Section 23

Notice Of Determination For Application Premises Licence

To: Mr Santharaja Pirasath

of: Oak's Wine Mart, 153 High Street, Sevenoaks TN13 1XJ

Ref: 23/00148/LAPRE

Sevenoaks District Council being the licensing authority, on the 13 January 2023 received an application for a premises licence in respect of premises known as Oak's Wine Mart, 153 High Street, Sevenoaks TN13 1XJ.

On the 7 March 2023 there being valid representations which were received but 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 for the following activities replacing the operating schedule conditions supplied with the application with the amended conditions submitted at the Hearing:

Section M: Supply of alcohol for consumption off the premises from:

Sunday - Thursday 07:00 - 21:00

Friday - Saturday 07:00 - 22:00

Section O: Hours premises are open to the public: 06:00 - 23:00

To add the conditions on the Licence as follows:

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

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. Operating Schedule Conditions Amended at the Hearing

1. CCTV:

- (a) The CCTV system at the premises shall be maintained in working condition and shall record 24 hours every day. Recordings shall be retained for a minimum of 31 days and shall be made available to Police or Local Authority officers on request and shall be capable of identification and of evidential quality in any light conditions.
- (b) The equipment MUST have a suitable export method i.e. CD/DVD/USB facility so that the Police and officers of the Council can make an evidential copy of the data they require. This data should be in the native file format to ensure that no image quality is lost when making the copy. If this format is non-standard (i.e. manufacturers

proprietary), then the licence holder shall within 14 days of being requested supply the replay software to ensure that the video on the CD can be replayed by the Police and officers of the Council on a standard computer. Copies shall be made available to the police and officers of the Council on request, or within 24 hours.

- (c) Staff working at the premises shall be trained in the use of the equipment and a log will be kept to verify this. At least one member of staff, so trained, shall be present at the premises at all times when it is open for licensable activities.
- (d) Cameras on the entrances must capture full frame shots of the heads and shoulders of ALL people entering the premises, i.e. capable of identification and of evidential quality in any light conditions.
- (e) There shall be signs displayed in the customer area to advise that CCTV is in operation.
- (f) Should the CCTV become non-functional this shall be reported immediately to the Licensing Authority and the problem rectified within 2 months. If this is not achievable, the Licensing Authority will be notified of the estimated repair time.
- (g) CCTV cameras shall monitor all internal areas of the premises that are accessible to members of the public including the area immediately outside the premises to monitor numbers and prevent crime and disorder.

2. "Challenge 25":

- (a) The Licensee shall adopt a "Challenge 25" policy, where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products, shall be asked for proof of their age.
- (b) The Licensee shall prominently display notices advising customers of the "Challenge 25" policy.
- (c) The following proofs of age are the only ones to be accepted:
 - Proof of age cards bearing the "Pass" hologram symbol
 - UK Photo Driving licence
 - Passport
 - Military ID

3. Staff Competence and Training:

- (a) The Licensee shall ensure that each member of staff authorised to sell alcohol has received appropriate training on the law with regard to

age-restricted products, proxy sales, and the licensable hours and conditions attached to the licence, including refresher training every six months, and that this is properly documented and training records kept. The training record (either written or electronic) shall be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police, on request.

- (b) The Licensee shall ensure that each member of staff authorised to sell alcohol is fully aware of their responsibilities in relation to verifying a customer's age and is able to effectively question purchasers and check evidence of proof of age.

4. Refusals Book:

- (a) The licensee shall keep a register of refused sales of all age-restricted products.
- (b) The refusals book shall contain details of time and date, description of the attempting purchaser, description of the age-restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the sales person refusing the sale.
- (c) The Refusals Book shall be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police, on request.

5. Incident Book:

- (a) The Premises Licence Holder shall ensure that an "Incident report register" ~~is~~ ~~is~~ ~~keep~~ kept in a bound book or electronic format, in which full details of all incidents are recorded.
- (b) This shall be completed as soon as possible and in any case, no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The register shall be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or the Police on request.

6. Deliveries:

- (a) The Premises Licence holder shall carry out due diligence checks to ensure, as far as practicable, that a person ordering alcohol to be delivered to their registered address, or collecting pre-ordered alcohol from the premises, is over 18 years of age. A record of each order and the checks carried out by the staff at the premises shall be kept either in a book or electronically and made available to Police, Local

Authority Licensing and Trading Standards officers on request.

- (b) Internet sales / deliveries shall only be permitted to a registered address, not parks, open spaces or vehicles. If the sale contains alcohol, and upon delivery the customer appears under the age of 25, proof of age photo ID in line with condition 2(c) must be validated by the person delivering the alcohol prior to it being handed to the customer. Any refusals upon delivery must be entered into the 'Refusals Book'.
- (c) If the premises has a website there must be a clear warning advertised that no sales of alcohol shall be made to persons under 18 years of age.
- (d) Alcohol deliveries by staff from the premises shall only be carried out by persons who have undergone appropriate Challenge 25 training.
- (e) If deliveries are carried out by an external contractor a contract shall be in place ensuring that they train their delivery staff in line with current legislation and conditions in relation to this Premises Licence.

7. Management

- (a) Staff will monitor customers outside the front of the Premises. Any customers who appear to be causing a disturbance will be politely asked to leave the vicinity quietly by staff.
- (b) No deliveries will be received, or removal of rubbish will take place between 19:00 and 08:00 hours daily.
- (c) Staff shall monitor the area outside the shop and dispose of any rubbish generated by customers.
- (d) All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection.
- (e) No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- (f) No unaccompanied children under 16 shall be on the premises after 21:00 hours.
- (g) There shall be minimum of 2 members of staff working at the premises between 17.00 to 23.00 hours on any day where the DPS has been informed by the Police, or where it is known that a public or private event is taking place that is likely to:
 - i. result in crowds of people near to the Premises;
 - ii. significantly increase footfall in the Premises; or

- iii. otherwise likely to create a material risk to public nuisance near the premises during those hours.

Reasons for the Decision

The reasons for the decision are:

Having had regard to the representations made by the Applicant and interested parties, 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 the Sub-Committee considered that the above stated limitation in hours for licensed activities would be appropriate for achieving the Licensing Objectives in particular the Prevention of Public Nuisance.

A reduction in licensed hours would be appropriate at this end-of-High Street location, where there are greater expectations for residential amenity and vulnerable people live nearby. In particular the reduction in hours is to take account of disruption that could be caused to families sleeping on school nights.

The Sub-Committee notes the other conditions offered by the applicant. This includes controls on the timing of deliveries and rubbish collections, noise generated from machinery on the premises, that unaccompanied children shall not be permitted on the premises after 21.00 hours and includes steps to reduce inappropriate loitering and noise levels outside the premises. These conditions have been accepted, subject to some amendments for enforceability.

The Sub-Committee notes that some concerns raised potentially related to other licensed premises and that some customers may realistically be attracted by non-licensable activities. However, on balance, information provided about the operation of the premises so far including the experience of Temporary Event Notices gave an indication of likely harm.

This licence granted at the Hearing is effective from the 7 March 2023.

Dated: 14/03/2023

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.