

LICENSING HEARING

Minutes of the meeting held on 20 July 2018 commencing at 10.30 am

Present: Cllrs Clark, Esler and Kelly

Also present:	Darian Keady	Environmental Health (SDC)
	Quentin Coulombel du Beaudiez	Applicant/Brisket & Barrel partner
	Sebastian Gagnebe	Brisket & Barrel partner
	George Stacey	Resident
	Demi Lockett	Resident
	David Lagzdins	Legal Advisor (SDC)
	Jessica Foley	Licensing Officer (SDC)
	George Lewis	Democratic Services Officer (SDC)
	Vanessa Etheridge	Democratic Services Officer (SDC)

1. Appointment of Chairman

Resolved: That Cllr. Clark be appointed Chairman of the meeting.

(Councillor Clark in the Chair)

2. Declarations of interest

There were none.

3. Report to Licensing Sub-Committee following a representation in relation to an application for a variation made under the Licensing Act 2003 for Brisket and Barrel in St Johns Hill, Sevenoaks - 18/01270/LAPRE

The Chairman welcomed everyone to the meeting.

The Hearing gave consideration to the report by the Licensing Officer giving details of an application for a variation to a premises license under the Licensing Act 2003.

The applicant and his company partner were in attendance and he summarised the company's first year as a business in the St John's Hill area of Sevenoaks, helping bring customers to the Bat & Ball area. They explained that the restaurant had engaged in two live events, both controlled by temporary event notices, which drew no complaints from nearby residents. The applicant advised that the terraced area outside would be for up to 60 people, with an outside bar manned at all times.

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After the applicant explained that the entrance from the road would be closed to keep noise levels for residents low, Members questioned how access would be gained. He confirmed that this would be through the restaurant itself, down some steps and into the terraced area. Disabled access would be through the street beside the restaurant, which would be fenced off.

Members questioned how often the restaurant would screen films and what type of film would be shown. The applicant confirmed films could be shown once or twice a year and that family films, James Bond or similar films, would be shown.

Environmental Health confirmed that the noise impact, especially during summer months, was detrimental to the properties that overlooked the back of the restaurant. They explained that noise could come from various sources that included noise from customers outside and from staff both during working hours and whilst packing away after the restaurant had shut.

A local resident from an adjacent flat objected to the application and raised concern about the noise being from 11am to 11pm on six days of the week, sometimes until midnight due to staff clearing up.

The Chairman moved, and it was

Resolved: That under section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting when considering noise recordings submitted by the Environmental Health Officer, on the grounds that likely disclosure of exempt information is involved, as defined in Schedule 12A: paragraph 1 - Information relating to any individual.

The Hearing was played noise recordings collected by Environmental Health from the objector's property.

The Chairman moved and it was

Resolved: That the public and press no longer be excluded from the Hearing.

Members invited the applicant to explain whether an earlier finish to the licensable activities was reasonable. The applicant agreed and explained that he wanted to come to a decision that suited all interested parties, which included a change of route from the restaurant to the terrace to encompass where the smoker is inside the kitchen area instead of through the street, which would affect neighbouring properties. The applicant also offered to restrict the use of the terrace to Thursdays, Fridays, Saturdays and Sundays and to stop the music on the terrace at 9 p.m., except on the occasions when there was live music.

At 11.38 a.m., the Hearing Panel 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.

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At 12.06 p.m. the Hearing Panel Members, Council's Legal Advisor and Clerk to the 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 objector, the Licensing objectives, the Statutory Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy and was therefore granting the application subject to additional conditions outlined in the Notice of Determination.

Resolved: That a Variation to a Premises Licence in respect of Brisket & Barrel, 123 St John's Hill, Sevenoaks, Kent TN13 3PE subject to mandatory conditions and additional conditions contained in the notice of determination attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 12.12 PM

CHAIRMAN

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Notice of determination of application for variation of premises licence

To: Brisket & Barrel

Of: 123 St John's Hill, Sevenoaks, Kent, TN13 3PE

Ref: 18/01270/LAPRE

Sevenoaks District Council being the licensing authority, on the 19 April 2018 received an application for a variation to a premises licence in respect of premises known as Brisket & Barrel, 123 St Johns Hill, Sevenoaks, Kent, TN13 3PE.

On the 20 July 2018 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 variation of the Premises Licence

Section B: To allow the exhibition of films outdoors:

Thursdays 12:00 - 21:00 hours

Fridays and Saturdays 12:00 - 22:00 hours

Sundays 12:00 - 17:00 hours

Section M: To allow the supply of alcohol for consumption both on and off the premises every day from 09:00 to 23:00 hours.

Section O: To allow the premises to be open to the public every day from 09:00 to 23:00 hours.

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

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."

4. Exhibition of films

- Where the film classification body is specified in the licence, unless subsection (3) (b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

- Where -

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In this section -

"children" means person aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Operating Schedule conditions

1. Substantial food shall be available at all times during the permitted hours.

2. The premises shall install and maintain a comprehensive CCTV system. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon request of Police or authorised officer

3. All staff will be trained to ask customers to leave quietly in the evening when

necessary.

4. There will be appropriate signage at the premises requesting customers to leave quietly.

5. An appropriate under-age system will be operated in accordance with Mandatory Conditions.

Additional Conditions

1. That the exhibition of films outdoors shall be limited to 4 occasions each calendar year.
2. That within the following hours the Premises shall be defined in accordance with those plans submitted to the Council as part of application 18/01270/LAPRE:

Thursdays 12:00 - 21:00 hours

Fridays and Saturdays 12:00 - 22:00 hours

Sundays 12:00 - 17:00 hours

but otherwise the Premises shall be defined in accordance with the plans submitted to the Council as part of application 17/02674/LAPRE

Informatives

1. It is noted that the Applicant offered not to play music outdoors after 21:00, except where live music events are held
2. It is noted that the Applicant offered to limit live music events to four per year
3. It is noted that the Applicant offered to be considerate of their neighbours in the type of music played
4. The Applicants are asked to ensure that staff are considerate when clearing the terrace area and that they do so quietly and quickly

The reason for the Additional Conditions is to achieve the Licensing Objective of the Prevention of Public Nuisance.

This licence granted at the Hearing is effective from the 20 July 2018.

Dated: 20 July 2018.

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.