

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 It was noted that 13 representations had been received but not withdrawn and that accordingly the application had been referred to the Sub-committee for determination.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