

LICENSING ACT 2003 NEW APPLICATION - The Suave, 14 South Park, Sevenoaks, Kent. TN13 1AN

Licensing Sub Committee - 1 April 2022

Report of: Chief Officer Planning & Regulatory Services

Status: For Decision

Key Decision: No

Portfolio Holder: Cllr. McArthur

Contact Officer: Jessica Foley, Ext. 7480

Recommendation to Licensing Sub-Committee:

The Sub Committee is asked to determine the application in accordance with the Licensing Act 2003 (as amended 29), Sevenoaks District Council Statement of Licensing Policy, and the Home Office Guidance issued per Section 182 of the Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

Reason for recommendation:

A new application has been received for a Premises Licence pursuant to Section 17 Licensing Act 2003. 1 representation against the application has been made by a local resident who also represents local residents.

Introduction and Background

- 1 An application has been made to Sevenoaks District Council for a new Premises Licence for The Suave, 14 South Park, Sevenoaks, Kent. TN13 1AN. The applicant is Miss Amy Ellen Foster - **Appendix A**
- 2 The nature of the proposed Premises Licence which is the subject of the application is to:

Allow the sale of alcohol for consumption on the premises Monday to Saturday, from 12:00 to 23:00 hours and Sunday from 12:00 to 22:00 hours. ;
- 3 For the attention of Members, a site plan of the area surrounding the licensed premises is at **Appendix B**.
- 4 The applicant was required to advertise the variation application by placing an A4 pale blue sign at the premises, and also to advertise in a local newspaper to inform the public of the application.

- 5 A consultation period took place between 12th February 2022 and 13th March 2022. Responsible Authorities were consulted as part of the process. The applicant conformed to all requirements in accordance with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

Representation received from Responsible Authorities:

- 6 The following Statutory Bodies (described as Responsible Authorities by the Licensing Act 2003) were consulted about this application

Kent Police	No comment made
Environmental Health	No objection
Kent Fire	No objection
Child Protection	No comment made
Trading Standards	No comment made
Health & Safety	No comment made
Planning	No objection
Public Health	No comment made
Home Office Immigration	No comment made

Representations received from others

- 7 A representation objecting to this application has been received from 1 local resident who also represents local residents. A copy of the representation is at **Appendix C**.
- 8 On the basis of the representation received, it is considered unlikely that this application will be successfully mediated before the Sub Committee Hearing.

Entertainment De-regulation

- 9 As the application also asks for Recorded music, Members attention is drawn to section 16.6 of the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003
- 10 No licence permission is required for:
- 11 Live Music
- a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that does not have a licence, provided that the audience does not exceed 500. A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.

- 12 Recorded Music
- any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
- 13 Licence Conditions
(Section 16.36 of the Home Office Revised Guidance)
Any existing licence conditions (or conditions added on a determination of an application for a premises licence) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08:00 and 23:00 on the same day where the following conditions are met:
- At the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises,
 - If the music is amplified, it takes place before an audience of no more than 500 people, and
 - The music takes place between 08:00 and 23:00 on the same day.
- 14 Licence Reviews: Live and recorded music
(Section 16.55 of the Home Office Revised Guidance)
On a **review** of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.

Licensing Sub Committee Considerations

- 15 In determining the application with a view to promoting the licensing objectives, the Sub Committee must give appropriate weight to:
- 16 The steps that are appropriate to promote the licensing objectives
The representations presented by all parties
The Home Office Guidance issued under section 182 Licensing Act 2003
The Sevenoaks District Council Statement of Licensing Policy
Any other relevant legislation
- The Licensing Act 2003 requires representations to address the four Licensing Objectives:
Prevention of crime and disorder
Public safety
Prevention of public nuisance
Protection of children from harm

A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives.

The objector must establish that such a consequence is a *likely* effect of the grant (i.e. more probable than not).

- 17 Sevenoaks District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. A link to this Policy is in the Background Papers section at the end of this report.

The aims of the Policy are:

To minimise nuisance and disturbance to the public through the licensing process

To help build a fair and prosperous society that properly balances the rights of people and their communities

To integrate its aims and objectives with other initiatives, policies plus strategies that will reduce crime and disorder, encourage tourism, encourage an early evening and night time economy which is viable, sustainable and socially responsible, reduce alcohol misuse, encourage employment, encourage the self-sufficiency of local communities, reduce the burden of unnecessary regulation on business, and encourage and promote, live music, dancing and theatre for the wider cultural benefit of communities generally.

- 18 The Licensing Sub Committee should be mindful of requirements and responsibilities placed on them by other legislation, in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the Equality Act 2010 and the Human rights Act 1998.
- 19 The Sub Committee is asked to note the procedures relating to this hearing which are contained within The Licensing Act 2003 (Hearing Regulations) 2005 (as amended). A link to these Regulations are in the Background Papers section at the end of this report.

Options

- 20 When considering this application for a new premises licence, the following options are available to the Sub Committee:
- Grant a licence in the same terms as it was applied for
 - Grant a licence, but modify or add conditions as appropriate for the promotion of the licensing objectives.
 - Grant a licence, but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives.
 - Reject the application.

Right of Appeal

- 21 Under Section 181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal to the Magistrates Court in respect of premises licence applications. This right of appeal is open to both the applicant and to any person who has made relevant representation. The appeal application must

be made within 21 days of the written notification of the Sub Committee's decision.

Key Implications

Financial

A decision made by the Sub Committee may be appealed by any party to the proceedings of a Magistrates Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council.

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 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.

Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.

Appendices

Appendix A - New Premises Licence Application

Appendix B - Plan of the area

Appendix C - Representation

Background Papers

[Licensing Act 2003](#)

[Revised Guidance issued under Section 182 Licensing Act 2003](#)

[Sevenoaks District Council Statement of Licensing Policy](#)

[The Licensing Act 2003 \(Hearings\) Regulation 2005](#)

Richard Morris

Chief Officer Planning & Regulatory Services