

LICENSING ACT 2003 PREMISES VARIATION APPLICATION : The Shard, 23-25 High Street, Swanley, Kent BR8 8AE

Licensing Sub Committee – Wednesday 23rd October at 10.30am

Report of: Chief Officer Planning & Regulatory Services

Status: For Decision

Key Decision: No

Portfolio Holder: Cllr. Irene Roy

Contact Officer: Susan Lindsey, Ext. 7491

Recommendation to Licensing Sub-Committee

The Sub Committee is asked to determine the variation application in accordance with the Licensing Act 2003 (as amended), 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 variation application has been received for a Premises Licence pursuant to Section 34 Licensing Act 2003. One representation has been made by the Environmental Health Team

Introduction and Background

1. In August 2024 a Premises Licence was issued for The Shard, 23-25 High Street, Swanley for the sale of alcohol for consumption both on and off the premises every day from 12 midday until 11pm. A copy of this premises licence is attached to this report as **Appendix A**
2. Soon after this Premises Licence was issued, a variation application was submitted (**Appendix B**) to include the following activities on that Premises Licence:
 - a) To extend the sale of alcohol for consumption on and off the premises from 11pm to 12.30am (the following morning) on Monday to Saturday, and 11pm to 12 midnight on a Sunday.
 - b) To add late night refreshment from 11pm to 12.30am (the following morning) on Monday to Saturday, and 11pm to 12 midnight on a Sunday.

- c) To add live music from 11pm to 12.30am (the following morning) on Monday to Saturday, and 11pm to 12 midnight on a Sunday.
 - d) To add recorded music from 11pm to 12.30am (the following morning) on Monday to Saturday, and 11pm to 12 midnight on a Sunday.
 - e) To remove the condition “Alcohol will not be served after 10.30pm to allow customers time to finish their drinks before leaving the premises”
3. Members attention is drawn to the fact that the steps the applicant has proposed to promote the licensing objectives in Part M of their variation application are already represented on their current Premises Licence, apart from :
- a) The addition of a condition under public nuisance “The manager shall regularly conduct inspections outside to make sure there is no noise outbreak”
 - b) The removal of the condition set out in 2(e) above.
4. The applicant was required to advertise the 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 28 day consultation period took place. 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.

Representations 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 | Response received : no objection |
| Environmental Health | Response received : representation made |
| Kent Fire | No comment made |
| Child Protection | No comment made |
| Trading Standards | No comment made |
| Health & Safety | Response received : no objection |
| Planning | Response received : comment made |
| Public Health | No comment made |
| Home Office Immigration | No comment made |

The representation submitted by Environmental Health is attached to this report at **Appendix C**

The comment submitted by Planning is attached to this report at **Appendix D**. Members should note that this is not an official objection to the variation application.

Representations received from others

7. No representations were received from others.

Licensing Sub Committee Considerations

7. In determining the application with a view to promoting the licensing objectives, the Sub Committee must give appropriate weight to:
8. 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).

- 14 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.

- 15 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.

- 16 The Licensing 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

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

Right of Appeal

- 18 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.

Climate Change Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to tackle the challenge of climate change. 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 – Current Premises Licence

Appendix B – Variation application form

Appendix C – Representation submitted by Environmental Health

Appendix D – Comment made by Planning

Background Papers

Background Papers

[Licensing Act 2003](#)

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

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

[Licensing Act 2003 \(Hearings\) Regulations 2005](#)

Richard Morris

Chief Officer Planning & Regulatory Services