

**NEW FOREST DISTRICT COUNCIL  
LICENSING ACT 2003**

**APPLICATION FOR A GRANT OF A PREMISES LICENCE: SPORTS PAVILION,  
WOODSIDE GARDENS, LYMINGTON**

**Decision of the Licensing Sub-Committee hearing held at Appletree Court, Lyndhurst  
on Monday, 3 October 2016 at 10.00am**

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**1. Members of the Licensing Sub-Committee**

Councillor G C Beck - Chairman  
Councillor R L Frampton  
Councillor Ms L C Ford

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**2. Parties and their Representatives attending the Hearing**

Mr Williamson & Mr Seamer, LSA Trading Ltd – Applicant  
Mr Bayntun – in support of the Applicant

**Objectors:**

Mr Bailey  
Mr Carruthers  
Mr & Mrs Dean  
Mr & Mrs Gosney  
Dr & Mrs Grabau (also representing Mr & Mrs Paddy, Mr Penny & Mr Wallace)  
Mr Groves  
Mr Hewson  
Mr D Jones  
Mrs Keeping  
Mr & Mrs Letcher  
Mr Mankin (also representing Mr Sanger & Ms Dunham)  
Ms Noakes  
Mr Patch  
Mr Plant  
Mrs Potts (also representing Mr Potts and Mr Howell)  
Mr & Mrs Quincey  
Dr & Mrs Sim  
Mrs Vincent  
Ms P Watson

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**3. Other Persons attending the Hearing**

Paul Weston – Licensing Officer  
Joanne McClay – Environment & Regulation Service Manager

**Observers:**

Mr Olliff  
Cllr Dunning  
Cllr Mrs Rostand  
Cllr White

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**4. Parties not attending the Hearing**

Ms Balfour	Mr Maxfield
Mrs Barker	Mrs McInnes-Soderberg
Mr & Mrs Barr	Mr McKeon
Ms Bates	Mr & Mrs Morley
Mrs Bishop	Mr & Mrs Paddy
Mr Black	Mr Penny
Mr & Mrs Boullier	Ms Phillipson
Mr & Mrs Butchart	Mr Pickering
Ms Carden	Mr Potts
Mr Carden	Mr & Mrs Podger
Ms Carruthers	Mr & Mrs Richardson
Mr & Mrs Chadbourn	Ms Sandercombe
Mr & Mrs Clark	Mr Sanger & Ms Dunham
Ms Clayton-Smith	Mr Simpson
Mr Clayton-Smith	Mr & Mrs Smith
Ms Coham	Mr & Ms Skinner
Ms Denman	Mr Southworth
Mr & Mrs Denham	Mrs Summerhayes
Ms Groves	Mr & Ms Surman
Mr & Mrs Hadfield	Ms Tatlow
Mr Hagon	Mr Tatlow
Ms Head	Mr & Ms Thompson
Mr Hinson	Mr Verdon
Mr Howell	Ms Verdon
Mr Hutchinson	Mr Wallace
Mr A Jones	Mr and Ms Walters
Mrs J Jones	Ms West
Ms P Jones	Mr Wilson
Mr Keal	Ms Wingrove

**5. Officers attending to assist the Sub-Committee**

Grainne O'Rourke – Legal Advisor  
Amanda Wilson – Assistant Legal Advisor  
Melanie Stephens – Clerk

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**6. Decision of the Sub-Committee**

The application is granted on the following terms and conditions.

**Licensable activities and times permitted:**

J: Supply of Alcohol – On the premises

Monday 11:00 to 23:00  
Tuesday 11:00 to 23:00  
Wednesday 11:00 to 23:00  
Thursday 11:00 to 23:00  
Friday 11:00 to 23:00  
Saturday 11:00 to 23:00  
Sunday 11:00 to 23:00

**L: Hours premises are open to the public**

Monday 07:00 to 23:20  
Tuesday 07:00 to 23:20  
Wednesday 07:00 to 23:20  
Thursday 07:00 to 23:20  
Friday 07:00 to 23:20  
Saturday 07:00 to 23:20  
Sunday 07:00 to 23:20

**Mandatory conditions:**

As provided in the Licensing Act 2003 and Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

Subject to the alternative licence condition as contained in section 25A (2) of the Licensing Act 2003.

**Conditions consistent with the operating schedule accompanying the application (M):**General – all four licensing objectives

1. A bank of staff will be used for the purposes of serving alcohol in the bar. Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.
2. All staff will receive refresher training every six months as a minimum and records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training.
3. In addition to their training a written test related to the training given will be conducted before the staff member is permitted to sell or authorise alcohol. The test will consist of a minimum of ten questions of which the pass rate is 80%. Anyone who fails to reach the prescribed pass rate will be retrained and re-tested. Anyone not attaining the pass rate will not be permitted to sell or authorise the sale of alcohol until the pass rate is attained. There will be a minimum of two sets of questions to be used in the training which will be rotated upon each subsequent six month training session. All community bookings will

be required to use trained staff from the bank and will not be permitted to sell alcohol on the premises on their own account.

4. All training records will be made immediately available for inspection by Hampshire Constabulary and any responsible authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.

#### The prevention of crime and disorder

5. Continually engaging in an inappropriate fashion will lead to ejection from the premises and the right of access withdrawn. An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to Police or any responsible authority for inspection upon request. Any incidents that include physical altercation or disorder, physical ejection, injury, ID seizure of drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author. If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.
6. At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.
7. The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas. CCTV warning signs to be fitted in public places. The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation. The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days. Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.
8. The licence holder must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, e.g. password protected. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to Police or any responsible authority on request when investigating allegations of offences or criminal activity. Any images recovered must be in a viewable format on a disc. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enable don the disc to allow playback. In the event of technical failure of the CCTV equipment the Premises Licence holder must report the failure to the Hampshire Western Police Licensing Unit within 24 hours.

9. A written log shall be kept of all refusals including refusals to sell alcohol. The Premise Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the store manager/manageress.
10. The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.
11. The record of refusals will be retained for 12 months.

#### Public Safety

12. The premises must be subject to an ongoing maintenance schedule with regular checks of fire extinguishers, wiring and appliances.

#### The prevention of public nuisance

13. Patrons will be excluded if found to be acting in an anti-social manner.

#### The protection of children from harm

14. There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises, shall produce identification proving they are 18 years of age or older. Acceptable identification for the purpose of age verification will include a photo car driving licence, HM Forces ID card or photographic identification bearing the 'PASS' logo (Proof of Age Standard Scheme) and persons date of birth. If no acceptable means of identification is produced, no alcohol, sale or supply, can take place to or for that person and it shall be recorded in the refusals log. Signage will be prominently placed around the area advertising that it operates the 'Challenge 25' initiative.

#### **Other conditions:**

15. Signage shall be displayed in prominent positions both within and outside the premises and in the two car parks located in Woodside Park to remind patrons of the need to respect local residents and to keep quiet when leaving the premises and in the immediate vicinity.
16. Alcohol will not be permitted for consumption outside the licensable area which was highlighted in red on the plan attached to the application. The licensable area shall be clearly marked to patrons.

#### **7. Absence of parties**

At the outset of the hearing it was noted by the Sub-Committee that a number of the parties were absent. Of these parties, the following had confirmed they would not be in attendance:

Ms Balfour	Mr Keal
Mrs Barker	Mr Maxfield
Mr & Mrs Barr	Mr & Mrs Paddy
Mrs Bishop	Mr Penny
Mr Black	Ms Phillipson
Ms Carden	Mr Pickering
Mr Carden	Mr & Ms Richardson
Ms Carruthers	Ms Sandercombe
Mr & Ms Chadbourn	Mr Sanger & Ms Dunham
Mr & Mrs Clark	Mr & Mrs Smith
Ms Clayton-Smith	Mr & Ms Skinner
Mr Clayton-Smith	Mr Southworth
Ms Coham	Mrs Summerhayes
Ms Denman	Mr & Ms Surman
Mr & Mrs Hadfield	Mr & Ms Thompson
Mr Hinson	Mr Wallace
Mr Howell	Ms West
Mrs J Jones	Mr Wilson
Ms P Jones	Ms Wingrove

This, therefore, left a number of absent parties who had not indicated whether they would be in attendance or not.

The Sub-Committee considered whether it was necessary in the public interest to adjourn the hearing or to hold the hearing in the absence of some of the parties. The Sub-Committee took into account that many of the points raised by the absent parties were very similar to the points raised by the parties in attendance. The Sub-Committee decided to proceed with the hearing in the absence of the parties and take into consideration the written representations made by those parties in reaching its decision.

## 8. Legal Points of Clarification

In order to address a number of concerns, the Council's Legal Advisor and Licensing Officer clarified the following: -

1. In response to a number of concerns raised in the objections regarding the advertisement of the application, the Legal Advisor set out the legal requirements of Regulation 25 of the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2003. The Licensing Officer confirmed that the applicant had met all of the relevant requirements.
2. In response to a number of queries raised prior to the hearing relating to whether all of the people who should be parties to the hearing were included in the list of objectors and sent the relevant notice of hearing paper, the Legal Advisor confirmed that Mr Penny's objection had been omitted from the papers in error, however, this objection had been circulated to all parties in advance of the hearing. The Licensing Officer confirmed that the makers of all valid representations, which met the requirements of Section 18 of the Licensing Act 2003, had been included as formal parties to the hearing and received notification of the hearing.
3. In response to a number of queries raised prior to the hearing regarding why additional documentary evidence from Mr Bayntun had been circulated to all parties on 29 September 2016, the Legal Advisor confirmed that in accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the Sub-Committee was entitled to take into account documentary information

produced by a party in support of their representation. As Mr Bayntun was a party to the hearing and the request for his additional documentary evidence was made prior to the hearing, it was circulated to all parties, including the Sub-Committee.

## 9. Reasons for the Decision

The Sub-Committee considered the application for the premises licence, along with all the evidence, both written and oral, supplied by the applicant and all those who had made relevant representations.

At the hearing, the Sub-Committee carefully listened to all the evidence that was provided and considered what action was appropriate for the promotion of the four licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

The Sub-Committee noted the absence of any relevant representations from any of the responsible authorities.

The Sub-Committee was of the view that the appropriate step for the promotion of the licensing objectives was to grant the application for the supply of alcohol in the terms set out at section 6 above.

During the hearing, the Sub-Committee heard from the applicant that following independent professional legal and accountancy advice, the applicant company had been structured in such a way that it was not possible for them to apply for a club premises certificate. This was the reason that they chose to apply for a premises licence to allow them to supply alcohol.

The Sub-Committee heard from the applicant that the restrictions on the lease for the premises meant that the premises would be managed in a similar way to that of a club with a club premises certificate. The applicant informed the Sub-Committee that the restrictions of the lease included the provision that alcohol could only be served to members, their guests or at closed functions.

The Sub-Committee also heard that the applicant had a robust safeguarding policy which would promote the protection of children from harm licensing objective. This included having a Safeguarding Officer, operating in accordance with a Challenge 25 Policy, having a robust CCTV system and adequately trained members of staff. Furthermore, the applicant advised that all alcohol would be stored on the premises in locked cabinets.

The Sub-Committee noted that in addition to the mandatory conditions of the Licensing Act 2003, the applicant had offered a number of conditions in the applications' operating schedule. The Sub-Committee carefully considered these conditions and where appropriate has imposed them on the licence in order to promote the four licensing objectives. The Sub-Committee felt that strict adherence to these conditions would address many of the concerns raised by parties who were objecting to the application.

During the course of the hearing, the applicant offered to include a condition on the licence to seek to mitigate any disturbance caused by persons leaving the premises, including having signage inside and outside the premises asking that

patrons leave quietly and disperse quickly in order to respect the peace and quiet of local residents. The Sub-Committee felt that the imposition of this condition would assist with promoting the prevention of public nuisance licensing objective. It was noted that the two car parks which would be servicing the premises were located some distance away. Therefore, the Sub-Committee also felt that the condition should require signs should be erected in these car parks.

At the hearing, the applicant showed all parties a detailed plan of the premises. This highlighted the licensable area, the non licensable areas, the entrances and exits to the premises, the provision of external lighting and the position of CCTV cameras located at the premises. The Sub-Committee felt that it was appropriate, given the location of the premises, and the wish to avoid drinking off of the premises, to impose a condition preventing alcohol from being consumed outside of the licensable area. In addition, this licensable area should be clearly marked for patrons of the premises to avoid any confusion.

The Sub-Committee heard from objectors that there had been recent vandalism and anti-social behaviour at the near-by skate park located in Woodside Park. Although this was not linked to the premises, objectors were concerned that the consumption of alcohol near-by could increase anti-social activity and crime and disorder in the area. However, the Sub-Committee were of the view that the premises would operate in accordance with its premises licence and licence conditions and the supply of alcohol would be controlled. In addition, although not a determining factor for the purposes of deciding the application before it, the Sub-Committee noted that a permanent presence at the premises, including the provision of CCTV, could act to discourage other anti-social behaviour in the locality.

The Sub-Committee were pleased that Mr Seamer, for the applicant, in seeking to have open dialogue with residents, offered his personal telephone number and that of the premises to residents should they have any concerns or incidents that they wished to report. He assured residents that he would act immediately should any issues arise.

In addition, should there be any concerns in the future regarding operation of the premises, the Licensing Act 2003 provides a statutory mechanism for any person to call the premises licence in for review.

The applicant had also made an application in accordance with section 25A of the Licensing Act 2003 as a community premises for the alternative licence condition to be placed on the licence that "every supply of alcohol under the premises licence must be made or authorised by the management committee" of the community premises. The licensing authority is satisfied that the arrangements for the management of the premises by the applicant are sufficient to ensure adequate supervision of alcohol on the premises and no representations were received from the police relating to this application. This alternative licence condition has therefore been included on the licence.

**Date: 3 October 2016**

**Licensing Sub-Committee Chairman: G C Beck**

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**FOR OFFICE USE ONLY**

Decision notified to interested parties on 7 October 2016