

**NEW FOREST DISTRICT COUNCIL
LICENSING ACT 2003**

**APPLICATION FOR THE GRANT OF A PREMISES LICENCE – THE WASH
HOUSE, HIGH STREET, MILFORD ON SEA**

Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Thursday, 27 April 2017 at 10.00am

1. Members of the Licensing Sub-Committee

Councillor S C Clarke – Chairman
Councillor A T Glass
Councillor L E Harris

2. Parties and their Representatives attending the Hearing

Mr Broomfield – Applicant
Miss Atkinson – Objector
Ms Forester - Objector

3. Other Persons attending the Hearing

Observers: Cllr Tungate
Mr Forester
Miss Atkinson
Mr Spinks
Mr Woodsford

4. Parties not attending the Hearing

None

5. Officers attending to assist the Sub-Committee

Kate Green – Legal Advisor
Melanie Stephens – Clerk
Paul Weston – Licensing officer

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

Supply of Alcohol:

Monday 09:00 – 22:30 hours
Tuesday 09:00 – 22:30 hours
Wednesday 09:00 – 22:30 hours
Thursday 09:00 – 22:30 hours
Friday 09:00 – 22:30 hours
Saturday 09:00 – 22:30 hours
Sunday 09:00 – 22:30 hours

Hours premises to be open to the public:

Monday 09:00 – 23:00 hours
Tuesday 09:00 – 23:00 hours
Wednesday 09:00 – 23:00 hours
Thursday 09:00 – 23:00 hours
Friday 09:00 – 23:00 hours
Saturday 09:00 – 23:00 hours
Sunday 09:00 – 23:00 hours

Mandatory conditions:

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

Other conditions:

(Consistent with the operating schedule)

1. Display notices promoting responsible drinking.
2. Display designated driver notices.
3. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
4. Windows and doors to be kept closed at all times (premises to be ventilated by 'mechanical' means).
5. A sound limiting device to be installed by an acoustic consultant
6. Entry by children under the age of 18 to the premises is prohibited unless between the hours of 09:00 and 20:00 hours accompanied by an adult.

(Conditions agreed between the Applicant and Police prior to the hearing)

CCTV

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 the strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.
8. CCTV warning signs to be fitted in public places.
9. 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.

10. 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.
11. 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.
12. The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.
13. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity.
14. All images downloadable from the CCTV system must be provided in a form that can be viewed on readily available equipment without the need for specialist software. In the event of technical failure the DPS will make arrangements for an engineer to be called to the premises to repair the system without delay.

Training

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.

Challenge 25

20. 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 or from the premises, shall produce identification proving that individual to be 18 years of age or older.
21. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and the person's date of birth. If the person seeking alcohol is unable to produce acceptable means of identification, no sell or supply of alcohol will be made to or for that person.

22. Challenge 25 posters shall be displayed in prominent positions at the premises.

Refusals Book

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

Incident Book

26. 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 for inspection upon request. Any incidents that include physical altercation or disorder, physical ejection, injury, id seizure or 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.
27. 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.
28. 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 staff 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.
29. This record will be retained for 12 months.

Agreed at/after the Hearing

30. Staff shall monitor customers smoking outside the premises on a regular basis and ensure patrons do not cause a public nuisance.
31. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
32. At the end of trading each day, the pavement from the building line to the kerb edge immediately outside the premises, shall be checked and litter should be collected and stored in appropriate waste storage.
33. The premises and immediate surrounding area shall be kept clean and free from litter at all times the premises are open to the public.
34. All rubbish, including bottles, shall only be moved, removed or placed in outside areas between 09:00 and 17:00 hours on normal trading days.
35. No deliveries must be made to the premises before 08:00 or after 17:00 hours.
36. A direct telephone number for the manager of the premises shall be made available to neighbouring residents at all times the premises are open.

37. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
38. No events solely for those under the age of 18 will be permitted on the premises
39. The pavement immediately outside the premises will not be used for the consumption of any drink purchased within the premises.
40. No furniture or seating will be added to the pavement outside the premises for use by customers of the premises.

7. Reasons for the Decision

The Sub-Committee carefully considered the application and supporting papers, along with the evidence supplied by the applicant and objectors at the hearing and the written representations received prior to the hearing. The Sub-Committee grants sale of alcohol in the terms set out in section 6 above.

The Sub-Committee noted that a number of appropriate conditions proposed to be attached to the premises licence had been agreed between the applicant and Hampshire Constabulary. There were no outstanding objections from any of the responsible authorities.

The Sub-Committee heard from the applicant that the premises would be run as a microbrewery that would sell locally brewed craft beers. The applicant intended to run a well-run establishment and in recognising the fears of the objectors, explained that he would be contactable to neighbours should any issues arise. The Sub-Committee encouraged open dialogue and communication between the Applicant and his immediate neighbours and wanted to confirm that noise complaints could be raised with Environmental Health should informal dialogue fail to resolve the issues. The Sub-Committee were pleased that the applicant had said he would be available to residents should they have concerns and have reflected this in the Licence conditions.

The applicant explained that the pavement immediately outside of the premises (referred also as the enclosed overhang) did not form part of his application. The Sub-Committee were informed that this was a public footpath and no licensable activities would take place in this area. As the footpath was very narrow and did not form part of the premises the Sub-Committee considered that the applicant should not make provision for seating of any kind as this would cause an obstruction to a public footpath.

The applicant confirmed that the sale of alcohol and opening hours of the premises would be consistent with the planning consent namely Monday – Sunday 09:00 – 23:00 hours. However, he explained that he did not intend to sell alcohol during the earlier part of the day.

The applicant also explained that only a small number of barrels (in metal or plastic containers) would be delivered once a week to the property. Rubber mats would be used to move the barrels thereby limiting the noise of their movement. The applicant explained that he could deliver these via the front entrance if the steps at the rear created unacceptable levels of noise. He also explained that bottles would be delivered via his personal vehicle in crates. The Sub-Committee took the view that restricting delivery times was required taking into account the nature of the delivery items, and the

location of the premises with restricted access and in close proximity to residential properties.

The Sub-Committee also heard from the applicant that empty bottles would be stored inside the premises after close of business and would then be moved in small crates to the alleyway at the rear of the premises for collection/disposal. The Sub-Committee reflected this in their condition that this could only be carried out during normal (9am to 5pm) working hours.

The Sub-Committee noted the concerns raised by both objectors that the close proximity of the premises to neighbouring residential properties and the nature of the buildings meant that noise both from within and from outside the premises would be an issue and could cause potential disturbance and sleep deprivation. In mitigating the fears of the residents it was clarified during the hearing that the pavement did not form part of the premises and was not therefore included in the application for the premises licence. Alcohol would not therefore be consumed on the pavement. The Sub-Committee welcomed and supported the applicant's proposal of installing a sound limiting device as set out in his operating schedule. The Sub-Committee also amended the applied for alcohol sales times to ensure that sufficient time was given to finish drinking to allow for prompt closure and dispersal at the closing time of 23:00.

The Sub-Committee watched and listened to video footage provided by one of the objectors showing the noise created from a builder operating within the premises. However the Sub-Committee noted that this was different to noise that may be created by premises customers. The Sub-Committee did however impose the conditions as proposed by the Applicant within his operating schedule that windows and doors will be closed at all times and that a sound limiting device would be installed.

Whilst the Sub-Committee were sympathetic of the points raised concerning traffic noise, environmental pollution and property de-valuation, no explanation was put to the Sub-Committee as to how these considerations fell within the licensing objectives.

The Sub-Committee encouraged open dialogue and communication between the Applicant and his immediate neighbours and wanted to confirm that noise complaints could be raised with Environmental Health should informal dialogue fail to resolve the issues. The Sub-Committee were pleased that the applicant had said he would be available to residents should they have concerns.

The Sub-Committee were satisfied that the licence could be granted with the conditions imposed as set out above.

The Sub-Committee reminded all parties that should there be any concerns in the future regarding the operation of premises, the Licensing Act 2003 provides a statutory mechanism for any person to call the premises in for review.

Date: 27/04/17

Licensing Sub-Committee Chairman: Cllr S C Clarke
