

**NEW FOREST DISTRICT COUNCIL
LICENSING ACT 2003**

**APPLICATION FOR VARIATION OF PREMISES LICENCE – THE GLEN, BUTTS
ASH LANE, HYTHE SO45 3RF**

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on 25 June 2021 at 10.00am**

1. Members of the Licensing Sub-Committee

Councillor Steve Clarke (Chairman)
Councillor Barry Dunning
Councillor David Harrison

2. Parties and their Representatives attending the Hearing

Applicants: Messrs Craig Bannister and Jordan Bannister

Objectors: Mr Christopher Molyneux

Mr James Rowsell (also representing Mr & Mrs Gardiner)

Mr K Warming (also representing Mr R Richiardi.)

3. Other Persons attending the Hearing

Council Officers:

Christa Ferguson - Licensing Manager

4. Parties not attending the Hearing

The following had confirmed that they would not be attending the hearing:

Mrs Susan Anderson
Mrs Christina Copley
Alan and Anne Gardiner (Mr Rowsell representing)
Mr Paul Hallett
Mr Christopher Hiatt
Mr Norman House
Mr and Mrs P Lewis
Mr Nicholas Lidstone
Ms L Mulley
Mrs V J Mulley
Mr and Mrs C Norris
Mrs H Pearson
Mr William and Sue Rial
Mr Trevor Richards
Mr Ray Richiardi (Mr K Warming representing)

Mrs T Russo
Mr & Mrs Brown
Mr Thomas Cunningham
Mrs Rachel Leyland
T & Y Fuller
Mr Steve Whitfield

5. Officers attending to assist the Sub-Committee

Richard Davies – Legal Advisor
Andy Rogers - Clerk

6. Absence of Parties

At the outset of the hearing it was noted by the Sub-Committee that a number of the parties were absent as set out below:

Mr Alan Bloss
Mr and Mrs R Cooper
Mrs Angela Davies
Mrs E A Fitzpatrick
Jane and Keith Kitcher
Mr Alex Lawton
Mrs Brenda Molyneux
Mrs Wendy Precious

Some absent parties had not indicated whether or not they would be in attendance. 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 those parties. The Sub-Committee took into account the fact that the points raised by these parties were very similar to the points raised by the parties in attendance. The Sub-Committee decided to proceed with the hearing in their absence and take into consideration their written representations in reaching its decision.

7. Decision of the Sub-Committee

The purpose of the hearing was to determine an application to vary the premises licence under section 34 of the Licensing Act 2003 (“the Act”) in respect of The Glen, Butts Ash Lane, Hythe, SO45 3RF.

The application is granted on the following terms and conditions.

- 1) To add a self-contained bar in the grounds of the premises to provide the sale of alcohol to those customers who are outside in the garden. This may also be used in the future for service to the function room.

- 2) To allow the sale of alcohol to start at 08:00hrs each morning (Monday to Sunday) and mirror the same in the hours that the premises are permitted to open; and
- 3) To increase the hours permitted on New Year's Eve through to 02:00hrs on New Year's Day.

The Sub-Committee granted the application as requested with the exception of 3) above, where the terminal hour will be 02:00hrs on New Year's Day, rather than 03:00hrs as was requested.

8. Reasons for the Decision

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

[Mr Rowsell, an objector, submitted a map showing the location of residents who had objected. This was admitted as evidence with the agreement of the Applicant and all other parties. This will appear with the papers for the hearing on the Council's website.]

In reaching its decision, the Sub-Committee has had regard to the Home Office Guidance issued under section 182 of the Licensing Act 2003, and the Council's own Statement of Licensing Policy.

At the hearing, the Sub-Committee carefully listened to all the evidence that was provided and considered what action, if any, was appropriate for the promotion of the four licensing objectives namely, the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

The main areas of concern raised by those objecting to the application related to the following:

- Increase in Anti-social behaviour (ASB) caused by alcohol;
- Noise issues and disturbance to neighbours in a residential area;
- Music related disturbance;
- Additional noise nuisance they believe the changes will bring, in addition to an increase in crime and disorder, from extended opening times and increased availability of alcohol

The Council's legal representative advised that issues raised by objectors, such as litter and car parking, were not relevant to the licensing objectives for the purposes of the application. Similarly, it was pointed out that some objectors mistakenly believed that the Applicants had applied for a later closing time of 1am, when the licence already permitted a 01:00hrs closure.

The Sub-Committee noted the Applicant's claim that there was no intention to make full use of the 8am opening time, as it was intended to take account of international sporting events which would be rare, and were likely to involve only 8-10 regular customers. They also heard that the premises was currently only using 79 hours of its permitted 98 opening hours and the Applicant's assertion that serving drinks from a bar in the garden rather than inside would not lead to additional noise.

Further, the Sub-Committee heard that the Applicant envisaged that the temporary structure and TV screen in the garden would be removed, once Covid restrictions were lifted. It also noted the Applicant's acceptance that not all complaints were unjustified.

The Sub-Committee noted Objectors' claims that noise levels, particularly from music, were unacceptable and exceeded the limits set out in the licence conditions. It also heard a submission that 32 objections indicated a degree of concern in the immediate neighbourhood.

The Sub-Committee heard claims that some objectors had complained to Environmental Health and the Police concerning noise, but the situation had not improved.

In this connection, the Sub-Committee decided to have a short adjournment to allow the Licensing Manager to ascertain if any complaints had been received by Environmental Health in the last 5 years.

On resumption of the hearing, the Sub-Committee noted the following from the Council's Environmental Health records:

- 3 current complaints re: football
- 2016 - 4 complaints
- 2017 - 1 query seeking advice
- 2018 - 1 pre-application enquiry

In view of evidence heard, and solely on the terms of the application, the Sub-Committee felt that, overall, granting the application would not adversely affect the promotion of the licensing objectives.

However, the Sub-Committee, out of consideration for the neighbours in a residential area, balanced against the premises' business needs, felt that a 2:00am termination hour on New Year's Day was more appropriate than the 3:00am requested.

Accordingly, the Sub-Committee was of the view that the appropriate steps for the promotion of the licensing objectives was to grant the application subject to the above conditions.

The Sub-Committee was sympathetic to a suggestion by one of the objectors that, out of courtesy towards local residents, the Applicant might consider erecting a sign requesting patrons to respect neighbouring properties and leave the premises quietly.

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.

Date: 25 June 2021

Licensing Sub-Committee Chairman: Cllr Steve Clarke

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Decision notified to interested parties on 25 June 2021