

LICENSING SUB-COMMITTEE – 25 JUNE 2021

APPLICATION TO VARY A PREMISES LICENCE

THE GLEN, BUTTS ASH LANE, HYTHE, SO45 3RF

1. INTRODUCTION

- 1.1 The purpose of this report is to provide Members with information at the hearing 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.

2. BACKGROUND INFORMATION

- 2.1 The Glen is located on a large corner plot of land and is situated on Butts Ash Lane which links the main bypass (A326) with the waterfront at Hythe. There is a nearby woodland nature reserve to the rear across Forest Front road and it is surrounded by residential properties. A location map of the area is provided as **Appendix 1**.
- 2.2 The premises consists of a function room, other indoor facilities, a large garden and children’s play area. There is a car park attached to the premises providing access for customers and mature trees to the rear perimeter. Live music and sporting events are provided for customers both inside and outside the building. Photographs of the premises, the garden area and the proposed new outside bar are provided as **Appendix 2**.
- 2.3 The photographs show there are approximately 30 tables in the side garden area, 5 tables on the patio area and 16 tables in the covered outside area. All of the tables are picnic bench style which can seat up to 6 people, but often seat less, particularly during Covid restrictions. The temporary roof which provides cover, allows for ventilation through lifted side panels and was installed a number of months ago to assist with Covid restrictions. There is also a screen which can be used to present televised sports fixtures etc.
- 2.4 The current premises licence permits the following activities:

Exhibition of a Film, Indoor Sporting Events, Performance of Live Music, Playing of Recorded Music, Performance of Dance, Provision of Late Night Refreshment, Sale or Supply of Alcohol for consumption on and off the Premises, and permitted opening times of 11:00hrs to 01:00hrs daily.
- 2.5 A copy of the current licence is provided as **Appendix 3** with the accompanying plan as **Appendix 4**.
- 2.6 The current premises licence holders (Mr Craig Bannister and his son, Mr Jordan Bannister) took on the premises in August 2018.
- 2.7 The premises licence was the subject of a review application, submitted by the Police in 2014, however, this related to previous management at the premises. More stringent conditions were added to the licence as requested by the Police at this time, and these can be found in Annex 3 of the current premises licence.

3. THE APPLICATION

- 3.1 In April, the Licensing Authority received an application to vary the current premises licence for the Glen public house from Craig and Jordan Bannister (“the applicants”). The application is attached in **Appendix 5** and the accompanying plan in **Appendix 6**.

3.2 The application was received by the Authority in early April but was not deemed as accepted until 30 April 2021, when the requisite public notice had been displayed and the newspaper notice arranged to be published. The statutory 28-day representation period followed.

3.3 The applicants seek to vary the premises licence as follows:

- 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 03:00hrs on New Year's Day.

There is no change requested to the terminal hour on the licence which remains at 01:00hrs Monday to Sunday and no request to remove or change any existing conditions.

3.4 On previous occasions, extensions to New Year's Eve celebrations have been extended by way of Temporary Event Notices (TENS) to extend the evening from 01:00hrs to 03:00hrs. TENS were also granted for some international sporting events when games began earlier than the standard opening hours of the premises, from 2013 to 2020.

3.5 Public consultation has been carried out as required under the Act and the application has been advertised both at the site and in the local newspaper.

4. REQUIREMENTS FOR A HEARING

4.1 The Licensing Authority must hold a hearing to determine the application where relevant representations addressing the licensing objectives are made. These objectives being:

- 1) The prevention of crime and disorder;
- 2) Public safety;
- 3) The prevention of public nuisance; and
- 4) The protection of children from harm.

4.2 Members are referred to statutory guidance issued by the Home Office under Section 182 of the Licensing Act 2003 dated April 2018, in particular the sections on the licensing objectives and determining applications.

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

4.3 In determining the application, the Licensing Sub-Committee must give appropriate weight to:

- 1) The steps that are appropriate to promote the licensing objectives;
- 2) The relevant representations presented by all the parties;
- 3) Home Office guidance; and
- 4) The Council's own Statement of Licensing Policy.

5. REPRESENTATIONS RECEIVED

- 5.1 During the consultation period the Licensing Authority received 32 representations against the application. These are all from residents who live in the area and are provided as **Appendix 7** of the report. Members may note that the roads where objectors reside are shown on the location plan provided as **Appendix 1**.
- 5.2 Residents have referred to 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.
- 5.3 Some of the objections refer to a later closing time of 01:00hrs which may have been inadvertently communicated to residents in the area via a letter drop. However, there is no change requested to the terminal hour (apart from New Year's Eve/Day). The licence already permits a 01:00hrs closure.
- 5.4 In supporting a transparent and robust application process, these representations have been included for Members to consider. Members may wish to consider the weight they give to aspects of these objections, in line with legal guidance.
- 5.5 Section 182 statutory guidance states that:
- 'It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.'* (paragraph 9.9)
- 5.6 The application does not seek to remove or amend any of the conditions attached to the current licence and conditions submitted in part M of the application replicate those already on the licence. However, should Members be minded to grant all or part of the application, they may add conditions to support the licensing objectives to the varied licence granted.
- 5.7 No representations have been received from any of the Responsible Authorities against the application, including the Police or Environmental Protection.
- 5.8 This hearing may only consider the variation and changes requested as applied for and not the existing licence.

6. THE HEARING

- 6.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations 2005. These Regulations provide that hearings should be held in public, unless the Licensing Authority considers that the public interest in excluding the public, outweighs the public interest in the hearing taking place in public.
- 6.2 The applicant and those parties making representations have been invited to this meeting and have been provided with this report and the procedures to be followed at the hearing.
- 6.3 The Applicant and those who have made relevant representations are entitled to address the Sub-Committee and to ask questions of the other party, with the consent of the Sub-Committee.

7. RIGHT OF APPEAL

- 7.1 It should be noted that the applicant and those who have made relevant representations may appeal the decision made by the Licensing Sub-Committee to the Magistrates' Court. The appeal must be lodged with the Magistrates' Court within 21 days of the notification of the decision.
- 7.2 In the event of an appeal being lodged, the decision made by the Licensing Sub-Committee remains valid until any appeal is heard and the decision made by the Magistrates' Court.

8. CONCLUSION

- 8.1 The Licensing Sub-Committee must, having regard to the application and any relevant representations take such steps as it considers appropriate for the promotion of the licensing objectives. Those steps are:
- (a) to grant the variation as applied for or
 - (b) to grant part of the variation or
 - (c) to reject the application

9. RECOMMENDATION

- 9.1 That the Licensing Sub-Committee determines the application.

10. APPENDICES

Appendix 1-Location of the premises
Appendix 2-Photographs of the site
Appendix 3-Current Licence
Appendix 4-Current licence plan
Appendix 5-Variation application form
Appendix 6-Variation plan of the premises
Appendix 7-Representations
Appendix 8-List of parties to the hearing

For further information contact:

Christa Ferguson
Licensing Manager
023 8028 5505
Email: christa.ferguson@nfdc.gov.uk

Background papers:

NFDC Licensing Policy
Section 182 Statutory guidance
Licensing Act 2003