

LICENSING SUB-COMMITTEE – MONDAY 22 AUGUST 2022

APPLICATION FOR A NEW PREMISES LICENCE MINSTEAD LODGE, SEAMANS LANE, MINSTEAD, LYNDHURST, SO43 7FT

1. INTRODUCTION

- 1.1 The purpose of the report is to provide the Sub-Committee with information at the hearing to determine the application for a new premises licence in respect of Minstead Lodge, Seamans Lane, Minstead, SO43 7FT

2. RECOMMENDATIONS

- 2.1 That the Licensing Sub-Committee determines the application for a new premises licence as provided at **Appendix 1**, which has been submitted in accordance with section 17 of the Licensing Act 2003 (“the Act”).
- 2.2 Under section 18 of the Act, the Sub-Committee may determine the application as it considers appropriate for the promotion of the licensing objectives and select from the following options:-
- Grant the application as applied for, subject to conditions which are consistent with the operating schedule accompanying the application and modified to such extent as the authority considers appropriate for the promotion of the licensing objectives; and any condition which must be included in the licence in accordance with the Act;
 - Refuse the application;,
 - Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - Refuse to specify a person in the licence as the premises supervisor.

3. BACKGROUND

- 3.1 The premises site is the administrative headquarters for the Minstead Trust, a charitable organisation that provides support for adults with learning difficulties. It is a registered charity (No 1053319) and has been in existence for a number of years.
- 3.2 The Trust supports a number of sites across the New Forest and beyond, all with the same aim, supporting and encouraging adults with learning difficulties to integrate, meet friends and to interact with others. Tea rooms, cafes and performance spaces provide training in hospitality together with outdoor activities such as the maintenance of the gardens at the sites and Furzey Gardens which is open to the general public. Sites managed by the Trust are:-
- Hanger Farm Arts Centre-Totton,
 - Furzey Gardens-Minstead,
 - Brickyard Café-Brickworks at Burseldon and
 - Lily and Lime-Portsmouth.
- 3.3 The site at Hanger Farm has held a premises licence, granted by this Authority, for the sale of alcohol and regulated entertainment since 2009. The terminal hour for the premises is midnight, however, as with all premises licences granted under the Act, this is the latest a premises may operate. Any premises may close earlier, on any occasion. Mr Kyle Maxwell is the Designated Premises Supervisor (DPS) at Hanger Farm and the application for Minstead Lodge also proposes Mr Maxwell as DPS for this premises.

3.4 Minstead Lodge has previously catered for weddings using Temporary Event Notices (TEN) and, in the past, may have allowed "Bring your own alcohol" ("BYO"), for which no payment is made and is therefore not licensable. Other events held at the site may have also involved music which was exempt from licensing requirements, or conferences where there is no licensable activity.

4. THE APPLICATION

4.1 The Licensing Authority has received an application for a new premises licence from Minstead Trust ("the applicant"), submitted by Mr Maxwell, the Events and Hospitality Manager for the site. The application is attached in **Appendix 1**.

4.2 The application seeks permission for the following licensable activity:-

Sale of alcohol for consumption on the premises

Monday, Tuesday, Wednesday and Sunday-10:00hrs to 23:00hrs and Thursday, Friday, and Saturday -10:00hrs to 23:30hrs.

Requested opening hours for the site are:

All days-09:00hrs to 24:00hrs.

The site will not be open to the general public, but for events only.

4.3 The application seeks only to provide the sale of alcohol at the site. Any regulated entertainment that takes place between 08:00hrs and 23:00hrs is exempt from the requirement to be licensed.

4.4 The application states that Minstead Lodge is the administrative headquarters of the Minstead Trust and the application seeks to provide the sale of alcohol to guests attending functions and weddings, to support the income of the charitable trust.

4.5 Currently, the premises may hold functions, weddings and events under the TEN process, which allows up to 20 events with licensable activities per year. These are usually applied for and organised by external caterers and are subject to individual fees. Only the Police or Environmental Health may object to the grant of a TEN.

4.6 The plans submitted to support the application are provided as **Appendix 2** and to assist Members, photographs taken at the site by the Licensing Manager are provided as **Appendix 3**.

4.7 A map indicating the locations of those making representations, Minstead Lodge and the nearby pub is provided as **Appendix 4**. Distances of representation addresses are included as **Appendix 5**.

4.8 The applicant has submitted a number of conditions that would be attached to any licence granted for the site. These can be found in the application form (**Appendix 1**). No additional conditions were requested by any of the Responsible Authorities during the consultation process.

4.9 Public consultation has been carried out as required under the Act and officers have confirmed that the application has been advertised both at the site and in the local newspaper.

5. REQUIREMENTS FOR A HEARING

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

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

5.2 The Sub-Committee is 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>

5.3 In determining the application, the Licensing Sub-Committee must give appropriate weight to;

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

6. REPRESENTATIONS RECEIVED

6.1 During the representation period, the Licensing Authority received 34 relevant representations from members of the public who live locally and 1 from the Parish Council.

6.2 Representations received against the application raise concerns about the implications of granting a licence for the premises and are provided as **Appendix 6**.

6.3 For the purposes of the Act and promotion of the licensing objectives, those objections that are considered relevant and therefore engage the Sub-Committee's discretion, fall into the following areas:

- Concerns by residents about the frequency of events at the premises, (the application currently seeks the licensable activity on all days),
- The operating hours requested on the application,
- Noise from guests that have drunk alcohol,
- Noise from guests who are enjoying the outside areas,
- Noise from music (however this does not form part of the application),
- Effects on vulnerable adults on the site.

6.4 Comments on issues such as transport, road layout, highways, impact on water courses, sewerage, wild camping, impact on wildlife and animals, whether there is the "need" for additional licensed premises or moral objections to alcohol consumption are not considered as relevant under the scope of the Act.

6.5 In addition, comments regarding fire safety are not considered as relevant as this is regulated under specific fire safety legislation. Fire risk assessments must be in place to meet existing legal requirements and obligations on behalf of the trust who own the building.

- 6.6 There are a large number of similarly worded representations, many of which refer to issues outside the scope of this application and may not form part of the determination. This also includes the effect of the sale of alcohol in a rural location leading to the risk of customers driving under the influence of alcohol. This of course is illegal, however there are many licensed premises in the Forest in similar rural settings which are licensed for the sale of alcohol and in most cases with more extensive hours. There is also a well-established and frequented pub in Minstead.
- 6.7 Those attending the venue will be aware of its rural location and the fact that they will have to make arrangements to travel to and from the site. Some will choose to drive, whilst others may be given a lift or travel by taxi.
- 6.8 All the Responsible Authorities have been consulted, (including NFDC and NPA planning departments) and no comments or objections have been received to the application. Environmental Health also confirmed that there are no noise complaints recorded against the premises and made no comment or objection received during the consultation process.
- 6.9 With regard to planning consents or restrictions, any licence granted does not override planning restrictions that may be in place. Licensing and planning are two separate regulatory regimes and must be treated as such. Any change of use or other planning requirement must be addressed separately, and to the correct authority.
- 6.10 The Act's four licensing objectives apply only to the premises and curtilage of a venue and not to the surrounding area.

7. THE HEARING

- 7.1 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.
- 7.2 The applicant and those parties making representations have been invited to this hearing and have been provided with this report and the procedures to be followed at the hearing.
- 7.3 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.

8. RIGHT OF APPEAL

- 8.1 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.
- 8.2 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

9. CRIME & DISORDER, ENVIRONMENTAL, EQUALITY & DIVERSITY AND DATA PROTECTION IMPLICATIONS

- 9.1 None

10. APPENDICES

Appendix 1- Application form

Appendix 2- Application site plan

Appendix 3- Photographs of the site

Appendix 4- Location plan indicating locations of representations

Appendix 5- Distance of representations from premises

Appendix 6- Representations submitted

For further information contact:

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Background Papers:

NFDC Licensing Policy

Statutory guidance issued under S182 of
the Licensing Act 2003