

## LICENSING SUB COMMITTEE – 10 OCTOBER 2018

### APPLICATION FOR A NEW PREMISES LICENCE – THE YARD CAFÉ, THOMAS STREET, LYMINGTON, SO41 9NA

#### 1. INTRODUCTION

- 1.1 The purpose of the report is to provide Members with information relevant to the hearing to determine an application for a premises licence made under section 17 of the Licensing Act 2003. The premises being The Yard Café, 11 St Thomas Street, Lymington, SO41 9NA.

#### 2. BACKGROUND INFORMATION

- 2.1 The Yard Café is situated to the rear of a commercial property in Lymington on St Thomas Street. The front half of the property is the Guy Kremer hair salon which opened in August this year. The rear of the property and outdoor courtyard form the proposed licensed premises. A location plan of the premises is provided at **Appendix 1**.
- 2.2 Prior to the property being split the premises had been licensed as a whole and operated as a licensed café. However, the premises were empty prior to the refit and the introduction of the hair salon to the front half of the property.
- 2.3 The applicant, Mr Knowles, has experience in the licensed trade and is the Designated Premises Supervisor at the White Lion in Gillingham, Dorset. He has also consented to be the Designated Premises Supervisor of The Yard Café initially.
- 2.4 Photographs of the property, the frontage and the side passage entrance which is intended to be used by customers are presented as **Appendix 2**. These photographs also reference the properties next to and above the premises. The photographs are described as follows:-

Photo 1 - Hair salon at the front of property showing the lighting shop next door and the shared gate entrance to the passageway.

Photo 2 - Sliding door between the salon and the café to the rear.

Photo 3 - View from the sliding door through the café. Courtyard to the right.

Photo 4 - View of the patio at flat 12a taken from the café courtyard.

Photo 5 - Steps up to flat 12a to the right, steps up to flat 11a. Gate to café courtyard in the centre. The open door to the left of the picture will be the entrance/exit to the premises when the salon is closed. The gate to the centre of the picture will not be used by customers.

Photo 6 - View of the passageway taken from the street entrance also showing steps up to flat 12a.

Photo 7 - View taken from the café door of the rear entrance to the lighting shop to the right and stockroom to the left.

Photo 8 - View of the passage taken from the café door. Upstairs flat windows can also be seen.

#### 3. THE APPLICATION

- 3.1 On 17 August 2018 New Forest District Council received an application from Mr Stuart J Knowles for The Yard Café. The application is attached as **Appendix 3** (blank pages removed).
- 3.2 The premises are described by the applicant as *“an all-day café serving breakfast, brunch, lunches-to serve alcohol alongside menu within the confines of the café*

*premises only.*

*The lock up café which seats a maximum of 24 customers, sits among other retail outlets and is located to the end of St Thomas street to the rear of the new guy Kremer salon and also has its own self-contained side entrance accessed from the street.”*

- 3.3 The application as received seeks to sell alcohol for consumption on the premises during the following times;

Monday to Sunday 10:00 to 23:00

The proposed opening times of the premises are;

Monday to Sunday 09:00 to 23:00

However, the proposed times have been amended as set out in paragraph 6.5.

- 3.4 The application has been correctly advertised both on the premises and in the local newspaper as required by the Licensing Act 2003.

#### **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 being:

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

- 4.2 Guidance about the licensing objectives has been issued by the Home Office under section 182 of the 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) The Home Office guidance;
- 4) The Council's own Statement of Licensing Policy.

#### **5. REPRESENTATIONS RECEIVED**

- 5.1 During the 28 day representation period the Licensing Authority received eleven representations from other persons, in the main, these being from residents and landlords of neighbouring properties. Representations have also been received from the owner of a neighbouring business and two community organisations. These are attached as **Appendix 4**.

- 5.2. The representations highlight concerns about the location of the premises to neighbouring properties, access to the premises via the side passageway, security, noise, disturbance from customers, storage of refuse from the premises, safety of customers and resulting bad behaviour from customers who have consumed alcohol.

## 6. AGREED CHANGES TO THE APPLICATION

- 6.1 In line with the requirement to make all Responsible Authorities aware of the application copies were served during the application process.
- 6.2 No representations were received from any of the Responsible Authorities, however conditions requested by the Environmental Health Officer (EHO) and the Police have been agreed by the applicant. These would be attached to any licence should it be granted in addition to the conditions volunteered by the applicant in the application.

The conditions requested by the Environmental Health Officer are presented at **Appendix 5**.

- 6.3 The Licensing Police officer also requested that a number of conditions be applied to any licence granted for the premises and the applicant agreed and these are presented as **Appendix 6**.
- 6.4 There is also a planning restriction for the hours that the premises may operate and the planning department has made the applicant aware of these.
- 6.5 Following the joint visit to the premises with the EHO and the Licensing Manager the applicant also agreed to amend the operating hours to provide:-

The sale of alcohol from Monday to Sunday- 10:00 to 22:00 and the opening times of premises- 09:00 to 22.30 Monday to Sunday. These hours would replicate the restricted planning hours.

- 6.6 During the meeting various options were discussed to try and mitigate some of the concerns raised in the representations. Confirmation of these measures can be found at **Appendix 7**. These include adding signage, possible measures to prevent unauthorised access to the upstairs flats, ensuring there is adequate lighting in the passage for customers and also having the main access and egress for customers through the hair salon during the hours the salon is open.

## 7. LEGAL IMPLICATIONS

- 7.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations 2003. These 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 Licensing Sub Committee and to ask questions of the other party, with the consent of the Licensing 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 any decision made by the Magistrates' Court.
- 8.3 A Responsible Authority or any person may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by a person other than a Responsible Authority will not normally be granted within the first 12 months except for the most compelling circumstances.

## **9. CONCLUSION**

- 9.1 The Licensing Sub-Committee must, having regard to the application and any relevant representations, consider which of the following measures are appropriate for the promotion of the licensing objectives:
- 1) Grant the Licence – as applied for in the application, with the agreed amended timings.
  - 2) Grant the Licence - but modify the conditions and/or hours with the addition of the conditions requested by the police and the EHO, as appropriate.
  - 3) Reject the application.

## **10. RECOMMENDATION**

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

### **Further Information:**

Christa Ferguson  
Licensing Manager  
Tel: 023 8028 5505  
Email: [licensing@nfdc.gov.uk](mailto:licensing@nfdc.gov.uk)