

LICENSING HEARING

Minutes of the meeting held on 17 May 2022 commencing at 10.30 am

Present: Cllr. Clack (Chairman)
Cllr. Bonin
Cllr. Pett

Also Present:	Mr Patel	Applicant
	Mr Crockard	Applicant's Representative
	Mr Gibson	Respondent's Representative
	David Lagzdins	Legal Advisor (SDC)
	Susan Lindsey	Senior Licensing Officer (SDC)
	Charlotte Sinclair	Democratic Services Team Leader (SDC)

1. Appointment of Chairman

Resolved: That Cllr Clack be appointed as Chairman of the Licensing Hearing.

2. Declarations of interest

There were none.

3. LICENSING ACT 2003 - Swanley Locals, 31 Azalea Drive, Swanley

The Chairman welcomed everyone to the meeting.

The Hearing gave consideration to the report by the Senior Licensing Officer giving details of an application for a premises licence for Swanley Locals, 31 Azalea Drive, Swanley, BR8 8HS. She provided a brief overview of the application, explaining that the application was for the sale of alcohol for consumption off the premises Monday - Sunday 06:00 - 23:00 at a local convenience store and that during the consultation period 9 representations had been received. Members' attention was also brought to the further representation made by one of the objectors. The steps the Applicant intended to take to promote the Licensing Objectives were set out on pages 23 - 26 of the report.

The Sub-Committee were advised that appropriate weight needed to be given to the steps the applicant intended to take to promote the licensing objectives, and to consider representations presented by all parties, Home Office Guidance, the Sevenoaks District Council Statement of Licensing Policy and any other relevant legislation. It was also brought to Members' attention that paragraph 10.15 of the Section 182 Statutory Guidance of the Licensing Act states that unless there are

Licensing Hearing - 17 May 2022

good reasons, based on the licensing objectives, for restricting hours, then the sale of alcohol should be in-line with the shops retail opening hours. The Hearing was reminded that all parties had the right to appeal within 21 days of the publication of the Notice of Determination.

The Applicant's representative advised that his client had offered additional conditions and restrictions and believed that these would be enough to mitigate any public nuisance complaints. He advised that the store had a separate slip road access for delivery and waste collections, however he would not be able to guarantee a time when deliveries happened as it came from a central company.

The Objector's representative advised that in the past there had been aspects of anti-social behaviour and his client had worked hard with the public and police to reduce this. Their concern with the application was that there had been no acknowledgment of previous anti-social behaviour or provided specific steps to address them.

Members asked questions of clarification.

The Licensing Sub-Committee heard from the Environmental Health representative who had concerns that deliveries and waste collections could cause a public nuisance to the local residents without further conditions this. However, he acknowledged that such noise would only have a limited connection to the licensed activities.

The Applicant's representative advised that the Applicant would want to work with neighbours and avoid any anti-social behaviour, and that he was an experienced convenience store operator.

At 11.19am the Hearing Members withdrew to consider the issues raised, accompanied by the Council's Legal Advisor and Clerk to the Hearing for the purpose of providing advice only.

At 11.42 am the Hearing Members, Council's Legal Advisor and Clerk to the Hearing returned.

Resolved: That having had regard to the representations made by the applicant and the interested parties, the Licensing Objectives, Statutory

Licensing Hearing - 17 May 2022

guidance issued under section 182 of the Licensing Act 2003 (as amended) and the Council's licensing policy the Sub-Committee's decision was to grant the licence in line with the application subject to minor amendments to proposed conditions for the purpose of enforceability. In coming to the decision limited weight had been given to the letters of support, however the Committee were satisfied that the conditions proposed would meet the licensing objections including the prevention of public nuisance and the protection of children from harm. Noting restrictions on deliveries and waste collection, refusal book CCTV and Challenge 25. The Full decision notice would be published within 5 working days of the hearing.

Notice of Determination

THE MEETING WAS CONCLUDED AT 11.45 AM

CHAIRMAN

LICENSING ACT 2003 - Section 23

Notice of determination for application premises licence

To: Mr Himanshukmar Patel

of: Swanley Locals, 31 Azalea Drive, Swanley, BR8 8HS

Ref: 22/00980/LAPRE

Sevenoaks District Council being the licensing authority, on the 22nd March 2022 received an application for a premises licence in respect of premises known as Swanley Locals, 31 Azalea Drive, Swanley, BR8 8HS.

On the 17 May 2022, there being valid representations which were received which had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section J: Monday to Sunday 06:00 - 23:00

Section L: Monday to Sunday 06:00 - 23:00

To add the conditions on the Licence as follows:

Mandatory conditions - the following conditions will be added to the premises licence when it is issued.

1. The supply of alcohol

- Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

2. Mandatory conditions in force from 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula— $P = D + (D \times V)$
where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or

supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

3. Mandatory Conditions in force from 01 October 2014

1.

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3.

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

4. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

To add the conditions on the Licence as follows:

- All staff involved in the sale of alcohol shall receive training in the Licensing Act 2003 and will be made aware of their responsibilities in relation to the Act. The training shall be written into a programme ongoing and under constant review and shall be made available to a relevant responsible authority when called upon.
- No member of staff should be permitted to sell alcohol until such time as they have successfully completed this training.
- The training will cover the topics below:

- Sale of alcohol to persons under 18 (penalties)
- Age verification policies and acceptable forms of identification
- Proxy sales of alcohol to children
- Signs of drunkenness and intoxication
- Recording refusals
- The Licensing Objectives

The Prevention of Crime and Disorder

- A CCTV system shall be installed to cover all entry and exit points enabling frontal identification of every person entering in any light condition.
- The CCTV system shall continually record and cover areas where alcohol is kept for selection and purchase by the public, whilst the premises is open for licensable activities. It shall operate during all times when customers remain on the premises.
- All recordings shall be stored for a minimum period of 31 days and shall be made available upon the request of Police or an authorised officer of the council throughout the preceding 31-day period.
- A staff member from the premises who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the minimum of delay when requested.
- CCTV shall be downloaded on request of the Police or authorised officer of the council.
- Appropriate signage advising customers of CCTV being in operation, shall be prominently displayed in the premises.
- A documented check of the CCTV shall be completed monthly to ensure all cameras remain operational and the 31 days storage for recordings is being maintained.
- A premises daily register shall be kept at the premises. This register shall be maintained and kept for a rolling period of 12 months. The register shall record all incidents which may have occurred which are relevant to the supply of alcohol and the promotion of the licensing objectives. Such incidents shall include, but not be limited to, complaints made to the premises alleging nuisance or anti-social behaviour by persons attending or leaving the premises and all refusals to sell alcohol. The register shall be readily available for inspection by an authorised person upon reasonable

request.

- All drinks promotions shall be risk-assessed to ensure the promotion is not irresponsible. Each risk-assessment shall consider the nature of the premises, the nature of the promotion including the size and duration of any discount and the type of customer potentially attracted by the promotion.
- There shall be no self-service of spirits on the premises. Alcohol will not be displayed near any entrance or exit.

Public Safety

- All exit routes and public areas shall be kept unobstructed, shall have non-slippery and even surfaces, shall be free of trip hazards and shall be clearly signed.
- All exit doors shall be available and easily openable without the use of a key, card, code or similar means.
- Regular checks and maintenance shall be carried out on all equipment, electrical installations, emergency lighting and fire alarms and equipment to ensure their continued safe operation. A written record of these checks shall be kept and made available to an authorised officer of the licensing authority.
- The premises licence holder shall ensure that a suitable fire risk assessment and emergency plan is in place at all times.
- An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.

The Prevention of public nuisance

- Signage shall be prominently displayed in the premises requesting that customers take home any alcohol they have purchased to consume it rather than consume it in the street.
- Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00.
- Deliveries to the premises relating to the licensed activities shall only take place between 07:00 and 19:00.
- The premises' frontage shall be regularly monitored to keep it clean and clear of litter.
- No accumulation of combustible rubbish, dirt, surplus material or stored

goods shall be permitted to remain in any part of the premises except in an appropriate place and of such quantities so as not to cause a nuisance, obstruction or other safety hazard.

The Protection of Children from harm

- The Licensee to adopt a “Challenge 25” policy where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products are asked for proof of their age. The Licensee to prominently display notices advising customers of the “Challenge 25” policy. The following proofs of age are the only ones to be accepted:
 - proof of age card bearing the PASS hologram logo;
 - passport; or
 - UK photo driving licence.
 - A Military ID Card

- Notices advertising that the premises operates a "Challenge 25" scheme shall be displayed in a clear and prominent position at the premises entrance.

- All occasions when persons have been refused service shall be recorded in the premises daily register.

- The register will contain details of time and date, description of the attempting purchaser, description of the age restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the salesperson refusing the sale.

- The Refusals book to be examined on a regular basis by the DPS and date and time of each examination to be endorsed in the book. The Refusals Book will be made available on request to a Licensing Officer, Trading Standards or the Police.

- Documented delegation of authorisations to sell alcohol shall be maintained at the premises and shall be available on request by an authorised officer of the Licensing Authority or a constable.

- A prominent clear notice shall be displayed at the point of entry to the premises advising customers that they may be asked to produce evidence of their age if seeking to purchase alcohol.

Dated:

Please address any communications to:

Licensing Partnership
Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.