

<b>Licensing Sub-Committee</b>	
<b>Meeting Date</b>	6 <sup>th</sup> October 2022
<b>Report Title</b>	Consideration of an application for the grant of a new premises licence under the Licensing Act 2003
<b>Premises</b>	The Little Blue Hut, Queenborough Harbour, South Street, Queenborough, Kent ME11 5AF
<b>Lead Officer</b>	Christina Hills, Licensing Team Leader
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. Members are requested to determine the application on its merits

## **1 Purpose of Report and Executive Summary**

- 1.1 The report advises Members of an application for a premises licence to be granted under the Licensing Act 2003 in respect of which representations have been made by eight (8) interested parties

## **2 Background**

- 2.1 The Licensing Sub-Committee is asked to determine an application for the grant of a new premises licence under the Licensing Act 2003 in respect of premises at The Little Blue Hut, Queenborough Harbour, South Street, Queenborough, Kent ME11 5AF

- 2.2 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:

- the prevention of crime and disorder
- the protection of public safety
- the prevention of public nuisance
- the protection of children from harm

- 2.3 The 2003 Act requires the council to publish a 'Statement of Licensing Policy' that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The council first adopted its Statement of Licensing Policy in 2004 and it has been regularly reviewed in line with legislative requirements ever since. The latest

policy was adopted on 1 April 2021. The Policy will be available at the meeting for reference purposes.

- 2.4 Under the 2003 Act, licensing authorities must, in carrying out their functions, have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for any departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives right to an appeal or judicial review. The Guidance will be available at the meeting for reference purposes.
- 2.5 A copy of the council's approved procedure for hearings of the Licensing Sub-Committee in relation to an application, along with a copy of the Hearings Regulations has been circulated to all parties prior to the meeting.
- 2.6 The Licensing Authority must, under the Act, refer any application for hearing to the Licensing Sub-Committee where relevant representations are made by a responsible authority or an interested party.
- 2.7 The Licensing Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence and the protection of private and family life.

### **3 The Application**

- 3.1 On 14<sup>th</sup> August 2022 an application was received from Ms Caroline Kennedy for the grant of a premises licence under section 17 of the Licensing Act 2003.
- 3.2 The application is for:  
Sale of Alcohol (on the premises)  
Friday – Sunday 10:00 – 20:00  
  
Also 10:00 – 20:00 on all bank and public holidays, Valentine's Day, Mother's Day, Father's Day, Christmas Eve and New Year's Eve and on days when Queenborough Market is operated on Queenborough Harbour
- 3.3 Part M of the statutory application form asks applicants to describe the steps they intend to take to promote the four licensing objectives. Where an application has been properly made and no responsible authority or other person has made a relevant representation, or where representations are made and subsequently withdrawn, these proposals are 'converted' in the form of clear and enforceable

licence conditions which, together with the Mandatory Conditions, make up the premises licence.

- 3.4 A copy of the application is shown as **Appendix I**. A copy of the plan for the premises are shown at **Appendix II**. Photos of the premises are shown as **Appendix III**.
- 3.5 Permission to use the premises for the sale of alcohol has been obtained from Queenborough Harbour Trust as shown at **Appendix IV**.

## 4 Representations

4.1 At any stage during the 28 day consultation period a responsible authority, a Councillor or an interested party, may make representations provided that the grounds are relevant to the licensing objectives and are not deemed to be vexatious, frivolous or repetitive.

4.2 Representations from responsible authorities:

- Kent and Medway Fire and Rescue Service – No representations.
- Kent County Council Trading Standards – No representations
- Kent County Council Services Children and Families – No representations
- Kent County Council Public Health – No representations
- Environmental Health, Swale BC – No representations
- Swale Borough Council Planning Area Team – No representations
- Kent Police – Have requested conditions as shown below:
  1. All persons that sell or supply alcohol to customers must have licensing training
  2. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place
    - a) Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation
    - b) Training records must be kept and shall contain the nature, content, and frequency of all training
    - c) Records must be made available for inspection by Police, Police Licensing Officer, and authorised officers from the Local Authority upon request either electronically or hard copy
  3. A challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as driving licence, passport, military ID card or proof of age card with the PASS Hologram.

4. After close of business, staff will clear any rubbish that has been left within the licensable area of this premises licence.

4.3 There have been eight (8) representations from members of the public. The representations are made on the basis of all 4 of the licensing objectives of prevention of crime and disorder, promotion of public safety, prevention of public nuisance, and protection of children from harm. These are shown at **Appendix V**.

## **5 Policy considerations**

The following provisions of the Secretary of State's Guidance apply to this application:

Chapter 2 – The licensing objectives

Chapter 8 – Applications for premises licences

Chapter 9 – Determining applications

Chapter 10 – Conditions attached to Premises Licences

The following paragraphs of the Council's Statement of Licensing Policy apply to this application:

Sections 3.1 to 3.14.4 – These sections set out the Council's approach with regard to licensing and details other mechanisms to deal with potential problems.

Section 2.1 to 2.8 – These sections set out the four licensing objectives and identifies matters that may be relevant to the promotion of each licensing objective.

Section 8 relating to new premises licence applications

Section 17 relating to conditions

## 6 Determining the application – Options of the Sub-Committee

5.1 Members are asked to determine which of the following options they deem appropriate:

- (i) grant a licence as applied for
- (i) grant a licence subject to conditions consistent with the Operating Schedule modified to such an extent as considered appropriate for the promotion of the licensing objectives and any mandatory conditions
- (ii) grant a licence but excluding any of the licensable activities applied for
- (iii) grant a licence but refusing to specify a designated premises supervisor
- (iv) reject the application

5.2 Members of the Licensing Sub-Committee are reminded of their duty under Section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to so-operate in the reduction of crime and disorder in the Borough.

## 6 Implications

Issue	Implications
Corporate Plan	There are direct links to Priority 3 – 3.4 Ensure that the council plays a proactive role in reducing crime and antisocial behaviour.....
Financial, Resource and Property	None unless there is an appeal to Magistrates' Court which proves to be successful and which could therefore result in costs being awarded against the Council.
Legal and Statutory	The Licensing Sub-Committee must carry out its functions with a view to promoting the four licensing objectives.  The procedure for dealing with new premises licence applications is set out in the Licensing Act 2003.  Schedule 5 of the Licensing Act 2003 deals with appeals. Any party to the application has the right to appeal the decision of the Licensing Sub Committee. Such appeal must be made to a Magistrates' Court within 21 days of the Appellant being notified of the decision.

Crime and Disorder	The council has a duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co-operate in the reduction of crime and disorder in the Borough. Section 17 of the Crime and Disorder Act 1998 states "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area"
Environmental Sustainability	No implications
Health and Wellbeing	No implications
Safeguarding of Children, Young People and Vulnerable Adults	Premises Licence Holders must be 'fit and proper' to operate licensed premises responsibly and uphold the licensing objectives which include 'protection of children from harm'
Risk Management and Health and Safety	Departure from the Guidance and Statement of Licensing Policy could lead to an increased risk of appeal. Similarly, if any decision made is not evidence based and proportionate
Equality and Diversity	No implications
Privacy and Data Protection	Normal privacy and data protection rules apply.

## 6 Appendices

6.1 The following documents are to be published with this report and form part of the report:

- **Appendix I:** Application form
- **Appendix II:** Plan of premises
- **Appendix III:** Photos of premises
- **Appendix IV:** Letter of permission from Queenborough Harbour Trust
- **Appendix V:** Representations from interested parties about the application

## 7 Background Papers

The Licensing Act 2003  
Guidance issued under Section 182 of the Licensing Act 2003 (as amended)  
Swale BC Statement of Licensing Policy

