



Making Swale a better place

LICENSING AUTHORITY: SWALE BOROUGH COUNCIL

LICENSING ACT 2003

LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

NOTICE OF DETERMINATION

Applicant: Caroline Kennedy

Regarding **NEW PREMISES LICENCE – The Little Blue Hut, South Street, Quayside Queenborough, Sheerness ME11 5AG**

Date(s) of hearing: 6 October 2022

Date of determination: 6 October 2022

Committee Members: [Chair]: Councillor Derek Carnell (Chair)
Councillor Carole Jackson
Councillor Mike Whiting

Legal Advisor in attendance at hearing(s): Helen Ward

Licensing Officer in attendance at hearing(s): Chris Hills

Democratic Services Officer in attendance at hearing(s): Jo Millard

Community Safety Manager in attendance at hearing(s): Stephanie Curtis

This was an application for:

- Variation Grant
 Provisional Statement Review Other
for a
 Premises Licence Club Premises Certificate Personal Licence
 Temporary Event Notice

A: Representations, evidence and submissions:

The Sub-Committee considered the representations, evidence and submissions of the following parties:

Applicant

- Mrs Caroline Kennedy and Mr Kevin Burgess

Responsible Authorities

None

Other Persons

- Cllr Simon Fowle
- Jan St John-Knight

Representations considered in the absence of a party to the hearing:

Those contained within the Report prepared for the Licensing Sub Committee

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Swale Borough Council

The Sub-Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto in particular:

Section 4 relating to the general duties of licensing authorities and sections 16-25 which relate to the grant of a premises licence;

The Sub-Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 8 & 9 which relates to premises licences & determinations
Chapter 10 which relates to conditions attached to licences;

The Sub-Committee has taken into account its Statement of Licensing Policy:

The Sub-Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):

N/A

C: Determination:

The Sub-Committee has decided to:

Grant the application as applied for, save for the addition of a number of conditions as set out in section E of this decision. For clarity, section E contains the complete set of conditions which will apply to the premises licence granted.

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and comments made at the hearing in respect of this licensing objective. The Sub-Committee noted that additional conditions had been agreed between the applicant and the Police and were content to endorse those conditions on the premises licence. The Sub-Committee carefully considered the concerns raised regarding anti social behaviour in the vicinity however they recognised that the premises had been trading using Temporary Event Notices over the summer without incident. They also considered that the presence of a responsible operator in the vicinity may go some way to promoting this licensing objective. The Sub-Committee considered the style of premises as described by the applicant at the hearing and the customer demographic and were satisfied that granting the application as applied, with the additional conditions relating to customer management, staff training and the alcoholic offer for would promote the licensing objective.

The Sub Committee considered the comments from the objector regarding CCTV however they did not feel it was appropriate or proportionate to add a condition regarding CCTV on the basis that the police had not requested the condition and the evidence provided did not justify this being a requirement of the premises licence holder at this time.

The Sub-Committee welcomed the offer of the applicant at the hearing to restrict the types of alcohol that they would offer for service and conditioned this aspect of the application accordingly.

The Sub-Committee noted that the applicant had taken advice about market traders using the premises licence and welcomed the applicant's confirmation that this would not happen. As such they conditioned the sale of alcohol permitted under this premises licence so that it can take place only from the Hut. Other traders within the market will need to obtain their own licensing permission if they wish to sell alcohol.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and the comments made during the hearing. In particular, concern had been raised regarding the location of the creek immediately adjacent to the proposed licensed area. The Sub-Committee noted the applicant's confirmation that the barrier would be in place and accordingly amended the applicant's proposed condition to ensure that a barrier would remain in place when the premises is operating.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and raised during the hearing.

Particular concern was made regarding music however the Sub Committee recognised that live and recorded music was not a part of the application and it would not be appropriate or proportionate to add conditions relating to that.

The Sub-Committee considered the concerns raised regarding toilets and agreed with the parties that the location of a portable toilet within the yard area would provide an appropriate solution. A condition regarding this was felt appropriate to ensure that it would remain in situ when the premises is operating for the sale of alcohol.

The Sub-Committee also considered the concerns regarding litter and as such imposed a condition to ensure bins were available for customer use and emptied regularly to prevent litter. They also imposed the condition agreed with the Police regarding keeping the licensed area clean at the close of business.

■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing regarding this licensing objective and were satisfied that the operating schedule for the premises is sufficient to promote this licensing objective.

The Sub-Committee noted that this licensing objective has a narrow definition under the Section 182 Guidance.

D: Appeal

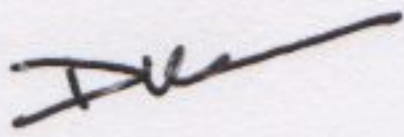
Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the Licensing Act 2003.

An appeal has to be commenced by the giving of a notice of appeal by the appellant to the justices' chief executive for the magistrates' court within a period of 21 days beginning on the day on which the appellant was notified by the licensing authority of the decision to be appealed against. Parties should be aware that the Magistrates Court may make an Order as to costs in any Appeal.

E: Conditions Imposed by the Licensing Sub-Committee (Full list of conditions which will apply to this premises licence).

1. The licensed area shall be the whole area edged in red on the plan.
2. A portable toilet shall be available for customers to use at all times the premises is operating under this licence.
3. The only alcoholic drinks sold at the premises shall be still and sparkling wine, beer, cider, pre mixed cocktails and pre mixed spirits and mixers.
4. All alcoholic drinks shall be decanted into plastic or paper drinking vessels.
5. Bins shall be made available for customers and emptied regularly.
6. Notices shall be displayed prominently at the premises reminding customers that they are not permitted to remove alcoholic drinks from the licensed area.
7. Sale of alcohol on the premises shall only take place from the area on the plan marked as "Hut"
8. A substantial barrier shall remain in place between the licensed area and the edge of the creek immediately abutting the licensed area.
9. At all times the premises is operating under this licence, persons shall not be permitted to bring their own alcoholic drinks for consumption within the licensed area.
10. All persons that sell or supply alcohol to customers must have licensing training
11. 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
12. 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.
13. After close of business, staff will clear any rubbish that has been left within the licensed area of this premises licence.

Cllr Derek Carnell (CHAIR):



Signed:

A copy of the original document is held on file

Date: 6 October 2022

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Clr Derek Camell (CHAIR)