



Making Swale a better place

**LICENSING AUTHORITY: SWALE BOROUGH COUNCIL**

**LICENSING ACT 2003**

**LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION**

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Applicant: Cave Hotels UK Ltd

Regarding **NEW PREMISES LICENCE – Cave Hotel & Golf Resort,  
Brickfield Lane, Boughton, Faversham, Kent ME13 9AJ**

Date(s) of hearing: 11 October 2022

Date of determination: 11 October 2022

Committee Members: Councillor Tony Winckless (CHAIR)  
Councillor Carole Jackson (Substitute)  
Councillor Lee McCall

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): Kellie MacKenzie

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

This was an application for:

☐ Variation      ☒ Grant

☐ Provisional Statement      ☐ Review      ☐ Other .....

of 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**

- Luke Elford (Solicitor for the Applicant)
- Richard Vivian (Acoustic Consultant)
- ~~David~~ Callister (Owner)
- Chris Baigent (Operations Manager)

**Responsible Authorities**

None

**Other Persons**

- Cllr Tim Valentine
- Cllr Tim Valentine on behalf of Lissa Davies
- Cllr Alister Gould
- Gill Davis
- Chris Wells on behalf of Jane Wells
- Lucy Barnes

**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 a new premises licence, in part as applied for, save for the following amendments

1. The request for live music is refused. The Licensing Sub Committee recognise that live music is permitted as deregulated until 11pm and the applicant confirmed no live music will take place beyond 10pm.
2. The request for additional hours on non standard timings is refused, save for on New Year's Eve and British Summertime.
3. All conditions agreed with the police and set out on page 8 and 9 of the agenda are to apply to the premises licence
4. All conditions included in the applicant's additional evidence bundle are applied, save for an amendment to condition 2 under "general" so that it reads "between the hours of 2am and 6am"
5. New conditions relating to fireworks will apply, to limit the amount of occasions fireworks can take place at the premises to New Year's Eve, Fireworks Night and no more than 10 other occasions per year. Except on New Year's Eve, no fireworks must be let off after 10pm. A condition will also be added that a fireworks policy must be in place.
6. A new condition will apply that a noise limiter will be in place and all amplified music must be played through the noise limiter. The limiter must be set by a qualified acoustician.
7. A new condition will apply that quarterly residents meetings must be offered.

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 felt that the operating schedule proposed was suitable to ensure promotion of this licensing objective and no further steps were considered appropriate or proportionate.

#### ■ **Public Safety**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and the comments made during the hearing. The Sub Committee felt that the operating schedule proposed was suitable to ensure promotion of this licensing objective and no further steps were considered appropriate or proportionate.

#### ■ **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 raised regarding noise from music and fireworks. At the hearing, the interested parties explained that local residents were currently being disturbed and had concerns that changes in the style of operation and how it had evolved would continue to cause disturbance.

During the hearing, the applicant, applicant's solicitor and noise consultant reassured the parties and Sub Committee that they would not play any music outside after 11pm, including in any marquee, and that live music would cease at 10pm. The Sub-Committee endorsed the condition that had been offered in this respect and refused to grant permission for live music, which had only been sought from 11pm.

The Sub-Committee heard from the applicant's acoustic consultant about the measures that had been put into place to mitigate noise escape. A number of representations made the point that if the volume could be turned down it would be less likely to cause a disturbance. On that basis, the Sub-Committee explored the option of a condition requiring a noise limiter to further control amplified sound and the applicant confirmed they would accept such a condition if the Sub-Committee were minded to grant the application.

In terms of fireworks, the applicant apologised for historic problems and explained that they would be agreeable to setting a limit on the number of occasions that fireworks could be used at the premises. They suggested 24 occasions per year and explained that they were putting together a policy. In response, the interested parties at the hearing suggested only Fireworks Night and New Years Eve would be suitable. The Sub-Committee understood the applicant's case for using fireworks



and felt that New Years Eve, Fireworks Night and 10 other occasions per year, subject to a time limit of 10pm (except on New Years Eve only) and a fireworks policy, which may refer to use of low volume fireworks, would be an appropriate balance to ensure promotion of this licensing objective.

In terms of the capacity, the Sub-Committee appreciated that the primary purpose of the application was to ensure the licence was suitable for the style of operation at the premises, which had evolved from a golf course to a hotel and event space alongside a golf course. In discussions regarding capacity, whilst the premises can accommodate in excess of 500 persons, the applicant had not applied for regulated entertainment prior to 11pm and confirmed that the capacity restrictions to allow this by way of deregulated entertainment could be adhered to. The Licensing Sub Committee accepted that the capacity condition on the existing licence was unsuitable for the premises and were confident that the measures put into place in their decision would mitigate any impact on the licensing objectives of the changes to the capacity of the premises.

The applicant had taken time to stress that this was not an extension of hours and on that basis the additional hours that had been applied for on Bank Holidays were refused. However, non standard timings on New Year's Eve and British Summertime were permitted.

The Sub-Committee noted that there were differing accounts of contact between the applicant and the residents and welcomed the suggestion from the applicant to host quarterly residents meetings. This was endorsed as a condition on the licence to ensure promotion of the licensing objectives.

#### ■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee had regard to the representations made in writing and at the hearing regarding this licensing objective and were satisfied that the operating schedule for the premises is sufficient to promote this licensing objective and no further steps were considered appropriate.

The Sub-Committee noted in particular the information contained with the s.182 Guidance regarding the scope of this licensing objective.

#### ■ **Other relevant considerations**

Reasons (state in full):

The Licensing Sub Committee recognised that the new premises licence is an opportunity to ensure the conditions are appropriate and proportionate and can properly regulate the business that takes place at the premises.



The Sub-Committee welcomed the investment that the operators had made to the premises and that they employed 250 people and the Sub-Committee acknowledged the benefit this brings to the economy and the local area.

The Sub-Committee noted that the applicant confirmed that the existing premises licence would be surrendered in the event that this new licence was granted and expects the applicant to make the appropriate arrangements.

#### **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 to 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. There shall be a personal licence holder on duty on the premises during all externally booked events. At any other time, the need for a personal licence holder to be on duty at the premises will be risk assessed by the Designated Premises Supervisor.
2. All staff responsible for selling alcohol shall receive training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act, and conditions of the premises licence within 6 weeks of employment and all new employees shall be supervised until such time as training has taken place. Written records of this training shall be retained for a period of no less than 12 months and made available on request to authorised officers of the Licensing Authority and the Police. Refresher training shall be provided at least every 6 months, or sooner if required.
3. The Designated Premises Supervisor is to complete a written risk assessment in relation to the requirement for SIA Licensed Door Supervisors at the premises. If door supervisors are required, the risk assessment will detail the times/number of SIA door supervisors to be employed at the premises within this role. The risk assessment will be retained for a period of no less than 12 months and shall be produced to a Police officer, Police Licensing Officer and authorised officers from the Local Authority upon request.



4. When SIA door supervisors are employed in this role within the premises, clothing or an armband will be worn that is identifiable on viewing CCTV.
5. The Premises Licence Holder shall ensure that all external (outdoor) Live and Recorded Music (including any music played in a marquee structure) ceases by 11pm
6. The Premises licence Holder shall ensure that any external (outdoor) Films shown cease by 11pm
7. The Premises Licence Holder shall devise, implement, and maintain a Noise Management Plan covering the operation of the Premises as a hotel and golf resort including events held at the Premises. At a minimum the plan shall include the following: • How deliveries to the Premises are managed; • How internal and external noise sources are controlled; and • A complaints mechanism for noise related complaints.
8. A copy of the Noise Management Plan shall be kept at the Premises and shall be made available to Responsible Authority Officers on request
9. The Premises Licence Holder shall provide a dedicated Noise Complaint Hotline for the duration of any events held at the Premises. The Noise Complaint Hotline shall be staffed by the Duty Manager. The number for the Noise Complaint Hotline shall be displayed on the hotels website and the number provided to the Licensing Department of Swale Borough Council for onward transmission to any person who asks for it
10. The amount of occasions fireworks are permitted to take place at the premises is limited to New Year's Eve, Fireworks Night and no more than 10 other occasions per year.
11. Where fireworks are to be used the Premises Licence Holder shall include the same in its Event Management Plan.
12. With the exception of New Year's Eve there shall be no firework displays at the Premises after 22:00 hours daily.
13. There shall be a personal licence holder on duty on the premises during all externally booked events.
14. With the exception of hotel residents and their guests there shall be no admission to the general public to the premises between the hours of 02:00 and 06:00.
15. There shall be a direct telephone number for the manager on duty at the premises. That number shall be available at all times. The telephone number shall be made available on the premises' website and on request.
16. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
17. For Events taking place at the Premises Only:  
Where an Event is to take place at the premises the Premises Licence Holder shall (upon request from a Responsible Authority Officer) present an Event Management Plan at least 7 days before the event. The Event Management Plan shall include, as a minimum (and where appropriate):
  - a. Access Management Plan;
  - b. Adverse Weather Plan;



- c. Alcohol Management Plan;
- d. Cancellation Procedure;
- e. Egress Management Plan;
- f. Risk Assessment; Lighting Plan;
- g. Noise Management Plan;
- h. Public Liability Insurance;
- i. Security and Crime Reduction Plan;
- j. Site Plans;
- k. Terms and Conditions of Entry;
- l. Trader Food Management Plan;

So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.

18. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Responsible Authority Officers throughout the entire 31-day period.
19. 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 is open. This staff member must be able to provide Responsible Authority Officers with copies of recent CCTV images or data with the absolute minimum of delay when requested.
20. An incident log shall be kept at the premises, and made available on request to Responsible Authority Officers. It must be completed within 24 hours of the incident and will record the following:
  - a. all crimes reported to the venue
  - b. all ejections of patrons
  - c. any complaints received concerning crime and disorder
  - d. any incidents of disorder
  - e. all seizures of drugs or offensive weapons
  - f. any faults in the CCTV system
  - g. any refusal of the sale of alcohol
  - h. any visit by a relevant authority or emergency service.
21. If a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
  - a. The police (and, where appropriate, the Ambulance Service) are called without delay;
  - b. All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - c. The crime scene is preserved to enable a full forensic investigation to be carried out by the police; and



- d. Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
22. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
23. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
24. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 07:00 hours on the following day.
25. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 hours and 07:00 hours on the following day.
26. No deliveries to the premises shall take place between 23:00 hours and 07:00 hours on the following day.
27. The premises licence holder shall ensure that any patrons smoking outside the premises do so in an orderly manner and are properly supervised by staff to ensure that there is no public nuisance.
28. The premises will offer residents' meetings at least once per quarter.
29. A noise limiter must be fitted to any musical amplification system that is used after 23:00hrs, and set at a level specified by a suitably qualified Acoustics Consultant who is a member of the Institute of Acoustics, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
30. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
31. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
32. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
33. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
34. 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 a driving licence, passport or proof of age card with the PASS Hologram.

Cllr Tony Winckless (CHAIR):



Signed:

*p. J. Winkler chair 12-10-2022*

A copy of the original document is held on file

Date: 11 October 2022

Clr Tony Winkler (CHAIR)