

Rother District Council
 DECISION NO: WK/201908554

GENERAL LICENSING PANEL DECISION NOTICE

Date of General Licensing Panel Meeting: 3 December 2019

Venue: Town Hall, Bexhill-on-Sea

Date of Decision: 3 December 2019

**NAME AND ADDRESS OF
 PREMISES:**

The Brewery Yard Club, Landgate, Rye, East Sussex,
 TN31 7LH

NAME(S) OF APPLICANT:

Ms Jane Garner
 Licensing Agent: M Nickson

**REASON(S) FOR
 REPORT:**

The report had been subject to 17 representations on the grounds of prevention of public nuisance and crime and disorder.

DECISION MADE AND REASONS FOR IT:

Reasons for the Decision

Following a hearing before the General Licensing Panel (Councillors Curtis, Mier and Timpe) of Rother District Council on Tuesday 3 December 2019, a Premises Licence in relation to The Brewery Yard, Landgate, Rye was granted subject to the hours and conditions set out in this notice.

This application was determined under section 18 of the Licensing Act 2003. In considering the application, the Panel had regard to the licensing objectives under the 2003 Act, together with the Statutory Guidance issued under S.182 of the Act, and the Council's Statement of Licensing Policy. In addition, the Panel had all the letters of representation both in support and against the application, and the recent Noise Consultant's report, dated 27 November 2019.

The Panel was initially addressed by the Senior Environmental Health Licensing Officer, who stated that the application had been amended in removing the extensions of hours involving New Year's Eve for retail sale of alcohol and regulated entertainment. This was confirmed by the Applicant.

The Applicant addressed the Panel both herself, through her Agent and her Business Partner. She sought to reassure the Panel and Interested Parties that her business model very much centred on providing a community based hub that would be unique in Rye, offering space for business networking and business exhibitions. She emphasised the venue was not to be a pub, nor indeed would the public be allowed to freely enter the premises to drink. A strict membership would be in place and the events element within the application would only be accessible through members of the venue. Whilst not seeking to operate as a Club Premises, the model of members only was to be adopted. It was stated there would be no under 25 year olds accepted as members. Focusing on the special events when regulated

entertainment would take place, it was said that these events would be closely monitored by the management team at the venue, sound monitoring would be carried out at regular intervals and the management team were very confident the venue would prevent any escape of noise. The Noise Consultant report was discussed in great detail and key elements of the document were to be adopted as conditions. It was said by the Applicant's Agent that the conditions already offered and the adoption of the recommendations of the Noise Consultant were more than sufficient to ensure the premises had no adverse impact within the setting. One aspect emphasised by the Applicant's team was the need for good management and communication with customers and certainly during discussions regarding the nuisance caused by smokers, assurances were given that smokers would be closely monitored to ensure they did not cause public nuisance. The Panel asked a series of questions in relation to the submissions to clarify aspects of the operating practices outlined.

The Panel was then addressed by the Pollution Control Officer who had made representations in regard to Public Nuisance. Owing to concerns with the original application, particularly considering the sensitive location together with the lack of attenuation works to combat the escape of noise, the officer had considered it appropriate to make the representations. In light of the Noise Consultant's report, the officer stated that many of his initial concerns could be alleviated should it be the case that the Applicant adopted the recommendations within the noise report. The officer outlined the finer details of the proposed noise limiting device which had been recommended, and was satisfied that his concerns could be met if conditions were imposed on the licence that reflected the Noise Report's recommendations.

The Panel was then addressed by two of the Representors, both of whom spoke of their concerns over historic issues when the club was run by other people.

There had been an incident in October 2019, organised by the Applicant, that had caused a public nuisance and that was mentioned in the letter of support from the people who held the party. The Agent for the Applicant added that with the proposals now in place to deal with noise emission, there would be no repeat of the problems experienced on that one occasion. It was said that car parking and the noise of people leaving at late hours would be unacceptable to residents, in addition to delivery vans disturbing residents at all hours. Both Representors stated that they had no confidence that noise would not disturb them given how close they lived to the venue. It was said by the Pollution Control Officer that any noise limiting device would be set at a level that would ensure noise was not audible in residential homes. The Representors also expressed their doubts that smokers could be controlled sufficiently to ensure no nuisance occurred. Again, the Applicant reassured the Panel that the management team would ensure smokers were controlled effectively.

The Panel allowed a series of questions between the parties to ensure that sufficient information was shared to allow a better understanding of the measures that were being offered to demonstrate good practice. The Panel also asked a series of questions to clarify key issues. All parties were then allowed to sum up their submissions, with the Applicant concluding that they believed the venue would be an asset to the community, that they were very confident they could uphold the licensing objectives and that they should be granted the licence.

The Panel was asked to consider whether to grant a premises licence, notwithstanding the number of representations that had been made against the application. The Panel was pleased to see that the Applicant had engaged the

services of a Noise Consultant and indeed, they were reassured that the recommendations made within the report were to be adopted in full. That made significant moves towards ensuring that noise would not be audible outside the venue. The Panel was satisfied, on balance that the sheer volume and variety of conditions offered by the Applicant, together with the measures outlined at the hearing, that the licensing objectives, particularly those relating to public nuisance, would be upheld. On balance, the Panel accepted the submissions made by the Applicant in relation to their management experience, and were satisfied that the behaviour of smokers could be controlled to avoid any public nuisance. The Panel was well aware that local residents had expressed concerns at potential noise disturbances, but they were satisfied on balance, that the conditions offered, together with the conditions imposed by the Panel would be sufficient to prevent any licensing objectives being undermined. Whilst the Panel recognised the concerns of residents and accepted the experiences they had suffered from the venue historically, they were satisfied, on balance, that the extensive conditions attached to the licence were sufficient to prevent future issues.

It was suggested within some of the letters of representation that the Panel should not put the commercial aspirations of business above the lives of local residents, but the Panel was satisfied that the measures considered and imposed would establish a balance between the two opposing arguments and ensure that local residents would not be adversely affected by the business.

Decision Made

Premises Licence be granted as below:

Retail sale of alcohol	<p>Monday to Sunday 11:00 to 23:00hrs</p> <p>Non-standard timings</p> <ul style="list-style-type: none"> • 11:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year. 	On and Off the premises
Live music, recorded music, plays, performance of dance	<p>Non-standard timings</p> <ul style="list-style-type: none"> • 23:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year. 	

Films	<p>Monday to Sunday 11:00 to 23:00hrs</p> <p>Non-standard timings</p> <ul style="list-style-type: none"> • 11:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year. 	
Late night refreshment	<p>Non-standard timings</p> <ul style="list-style-type: none"> • 23:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year. 	

Conditions offered by the Applicant

These are the steps the Applicant intends to take to promote the four licensing objectives.

General

The premises licence holder, DPS, management and staff will constantly assess any risks to the licensing objectives. They will work in partnership with the authorities and local people alike in this respect. The staff will be properly authorised, equipped, trained and motivated in this task. There will be:

- A written notice of 'authority' record for all staff who sell alcohol
- Comprehensive training for staff in the main requirements of the Licensing Act 2003, the specific measures and conditions in place to promote the Licensing Objectives and the staff roles and responsibilities. Such records shall be available for inspection by the responsible authorities.
- Contact details of the Designated Premises Supervisor or nominated adult representative shall at all times be available to staff, the authorities and local residents.

Prevention of Crime & Disorder

The management and staff will take all necessary steps to ensure that the premises remain free from crime and disorder and neither cause or contribute to crime and disorder in the area. This will include:

- Staffing levels maintained appropriately to ensure adequate security.
- High value items stored securely
- Staff being trained on security issues including how to identify and refuse service to customers that are drunk or appear to be drunk.
- A policy of zero-tolerance to drugs at the premises

- CCTV shall be provided in the form of a recordable system capable of providing pictures of evidential quality
- Cameras shall encompass all ingress and egress to the premises and any internal areas where the sale of alcohol occurs
- CCTV equipment shall be maintained in good working order and correctly timed and dated.
- Recordings will be available for a minimum period of 28 days and handed to the police or duly authorised officers of the council upon request.
- The system shall be kept in a secure environment under the control of the premises licence holder or other responsible named individual.

Public Safety

The management and staff will have an effective policy to maintain a safe venue for customers and staff. Any risk to safety will be assessed before the premises are opened to visitors each day and throughout the hours of operation. The DPS will liaise with the authorities to ensure that all aspects of public safety are adhered to. The policy will include:

- Appropriate fire-fighting equipment being installed and maintained at the premises and staff trained in its use.
- Fire risk assessments being undertaken and acted upon in accordance with current recommendations and requirements.
- Effective lighting maintained and operated to ensure the safety of visitors and staff
- 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.
- 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.

The Prevention of Public Nuisance

The Licence holder, DPS and staff are mindful of the need to reduce the impact of any nuisance caused by the operation of the premises, will constantly assess the risk of public nuisance and take immediate steps to eliminate the problem. The policy will include that:

- All doors and windows shall remain closed during periods of regulated entertainment other than to allow access to and from the premises and in the case of an emergency
- Satisfactory arrangements will be put in place to supervise an orderly dispersal of visitors when leaving the property to ensure the minimum of noise and disturbance to local residents.
- 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.
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- 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.
- No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas and no delivery or removal of catering supplies/equipment between (21.00) hours and (08.00) hours on the following day
- Flashing or particularly bright lights on or outside the premises shall not cause a

nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.

- Live or recorded music from regulated entertainment shall not be audible at the nearest noise sensitive property, so as to cause a disturbance to local residents
- The premises licence holder or his/her representative shall conduct regular assessments of the noise coming from the site on every occasion they are used for regulated entertainment. Appropriate steps shall be taken to reduce the level of noise where it is found to be heard at the facade of the nearest residential property.
- Any complaints received about noise shall be logged and remedial action taken as a matter of urgency.
- The premises licence holder will ensure that all staff are trained in noise reduction techniques and the licence conditions regarding the prevention of public nuisance.
- Records will be kept over liaison with outside agencies and authorities, complaints received and actions taken

Protection of Children from Harm

The premises will be promoted as family friendly and suitable for all ages, although the business will be aimed at mature adult visitors. Should children be in attendance, there will be no inappropriate entertainment, promotions, activities or behaviour tolerated at the premises that might put children at risk. There will be an effective age verification policy in accordance with the mandatory code. This policy will be one of Challenge 25 for age-restricted products and include:

- The appropriate display of notices relating to the policy within the premises.
- These notices will indicate that any customer not appearing to have reached the age of 25 will be required to produce appropriate identification proving that they have turned 18 before being sold alcohol.
- Appropriate ID will be a valid passport, photo driving licence, PASS accredited proof of age card or other reliable photo-ID that is recommended and approved for acceptance by the police or other authorities.
- Staff shall be trained in aspects of responsible alcohol retailing and in particular the Protection of Children including the Challenge 25 policy.
- Training will occur before a staff member is given authorisation to sell alcohol within the premises.
- Staff training records will be available for inspection by the police or other responsible authority upon request.

Staff are to prevent customers taking glasses and open bottles out of the premises into the street or other public place.

Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

Additional Conditions imposed by the Panel at the Hearing

- A noise limiting device shall be fitted to the musical amplification system in agreement and to the satisfaction of an authorized officer of the Council. The noise limiter shall be set and maintained at a level to be decided upon by an authorised officer. The operational panel shall then be secured and the noise limiter shall not be altered without the prior agreement of an authorized officer of the Council.
- Secondary double glazing will be added to all windows at the premises that are not already double glazed.
- Suitable soundproofing should be applied to the first floor fire door.

- All tables and chairs used by the premises in external areas shall be removed by 21:00 hrs.
- All external doors shall be fitted with self-closing mechanisms and there shall be no hook and eye fastenings to hold doors open.
- Provide adequate noise attenuation insulation to the existing ventilation grill at the top of the bar area.
- Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- There shall be no more than 5 smokers outside the premises at any one time.
- No drinks in open vessels shall be taken outside the premises.
- Prominent, clear and legible notices shall be displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- Exterior and security lighting must be positioned to avoid causing a nuisance to neighbouring residential properties.
- The premises licence holder or his/her representative shall conduct regular assessments of the noise coming from the site on every occasion they are used for regulated and deregulated entertainment. Appropriate steps shall be taken to reduce the level of noise where it is found to be heard at the facade of the nearest residential property.

Rights of Appeal

Under the provisions of Section 181 and schedule 5 of the Licensing Act 2003 there is a right of appeal against the decision of the Licensing Committee if you are aggrieved at the outcome. This right of appeal extends to the Applicant in the case of a refusal or restrictions on the licence, or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations where the licence has been granted, or that relevant conditions have not been imposed upon the licence. Full details of all the rights of appeal can be found within Schedule 5 of the Act.

Any appeal should be made to the Magistrates Court, Edward Street, Brighton, within 21 days from the date of notification of the decision. You must contact the Magistrates Court to establish the formal procedure for the appeal.

A written or electronic copy of this Notice will be publicly available to all parties, and published on the Council's website.