

Rother District Council

Report to: General Licensing Panel

Date: 25 March 2021

Title: Application for a Premises Licence at The Fig, 2 High Street, Rye, East Sussex TN31 7JE

Report of: Head of Service-Environmental Services, Licensing and Community Safety

Ward(s): Rye and Winchelsea

Purpose of Report: To determine the Premises Licence application WK202013294 made under Section 18 of the Licensing Act 2003 for The Fig, 2 High Street, Rye, East Sussex TN31 7JE

Officer Recommendation(s): It be **RESOLVED:** That the application for a Premises Licence be determined.

1. Introduction

Thirteen representations have been made regarding the application for a premises licence; therefore, it has been referred to this Panel for determination.

1.1 Applicant Details:

The Fig (Rye) Limited
The Fig, 2 High Street, Rye, East Sussex TN31 7JE

Agent
Mr Jon Wallsgrove, John Gaunt & Partners

1.2 The Premises:

The Fig, 2 High Street, Rye, East Sussex TN31 7JE

Please see the location plan, proposed licensed area plan and photographs (Appendices B, C & D).

Location:

The premises is situated on the High Street in Rye. In the vicinity there is a mix of commercial premises with residential properties above.

Description:

The premises is currently being used as a café with tables on one level, the ground floor.

2. The application

The applicant applied on the 03/02/2021 for the following licensable activity:

Sale/supply of alcohol (on and off sales)

Monday to Sunday 10:00 to 21:45hrs

Opening hours (not a licensable activity)

Monday to Saturday 09:00 to 22:00hrs, Sunday 10:00 to 22:00hrs

Description

"Café on one floor".

Operating schedule

The applicant has described, in their Operating Schedule, the steps they intend to take to promote the four licensing objectives. These are reproduced in Appendix A and in the event that the application is granted, these will be translated into conditions included in the licence (unless the conditions have been modified by the licensing authority following consideration of relevant representations).

Regulated entertainment

The government has deregulated many aspects of regulated entertainment.

The applicant has not applied for any authorisation for regulated entertainment. However, no licence is required for unamplified live music at any place between 08:00hrs and 23:00hrs if the audience is less than 500.

No licence is required to put on amplified live music at a workplace (including outdoor spaces) between 08:00hrs and 23:00hrs if the audience is less than 500.

The provisions of the Live Music Act 2012 / Legislative Reform (Entertainment Licensing) Order 2014 enable premises granted an 'on sales' alcohol premises licence to put on performances (in the alcohol licensed area) of amplified live and recorded music between 08:00hrs and 23:00hrs if the audience is less than 500, without a licence to do so. These entitlements can only be conditioned, restricted or removed by the General Licensing Panel during a premises licence '**review**' application.

3. Licensing History

The applicant currently holds a premises licence LN/000024152 for this premises. This licence was determined at a General Licensing Panel on 31/05/2019. The report and the decision notice can be viewed:

<https://rother.moderngov.co.uk/ieListDocuments.aspx?CId=155&MId=478&Ver=4>

The Panel imposed a public nuisance licence condition “*All windows and doors shall be closed during the hours permitted within the premises licence, other than for immediate access or egress*”; this was altered on appeal to “*All windows and doors shall be closed from 20:00hrs until the premises is closed, other than for immediate access or egress*”.

The premises has on four occasions used Temporary Event Notices for licensable activities/hours not covered by the premises licence.

There are no licensing related complaints logged on the Environmental Health database.

4. Relevant representations from responsible authorities.

The Licensing Act 2003 requires that a copy of the application is sent to the responsible authorities.

Rother DC Planning	No representation
Rother DC Env Health Pollution Team	Representation
Rother DC Env Health Food & Safety Team	No objection
East Sussex Fire and Rescue Service	No objection
Sussex Police	No objection
ESCC Child Protection	No representation
ESCC Public Health	No representation
ESCC Trading Standards	No representation
Home Office Immigration Enforcement	No representation

The representation from the Pollution Team is reproduced in Appendix E.

5. Representations from interested parties

The application has been subject to the usual public advertisement.

Interested parties	Relevant licensing 'objective'
4	In support of the application
8	Public nuisance

The representations are all reproduced in full in Appendix F. Representations objecting to the application are primarily concerned with the existence/potential for public nuisance.

6. Summary

There are representations from persons supporting the application and those objecting to it.

7. Legislation

The Licensing Act 2003 requires that the Council, as the local Licensing Authority, carry out its functions with a view to promoting the four Licensing Objectives:

- a) The Prevention of Crime and Disorder
- b) Public Safety
- c) The Prevention of Public Nuisance
- d) The Protection of Children from Harm

In exercising those functions, the Licensing Authority must also have regard to Guidance issued by the Secretary of State and its own Statement of Licensing Policy.

Under Section 181 and Schedule 5 (Part 3) of the Licensing Act 2003, rights of appeal exist to the Magistrates' Court against the decision of the Licensing Authority. Such appeal may be made on behalf of:

- a) the applicant;
- b) the holder of the Premises Licence; or
- c) any other person who made relevant representations in relation to the application.

8. Consideration

Under s18 Licensing Act 2003 the following options are available to the General Licensing Panel:

- a) to grant the licence subject to the conditions consistent with the operating schedule modified to such extent as considered necessary for the promotion of the licensing objectives;
- b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- c) to refuse to specify a person in the licence as the designated premises supervisor; or
- d) to reject the application.

Conditions are modified if any of them is altered or omitted, or any new condition is added.

The General Licensing Panel will be required to give reasons for their decision.

Implications

9. Legal Implications

The applicant and others party to the hearing have a right of appeal to the Magistrates' Court.

10. Human Rights

The Panel's decision making is guided by the principles of proportionality which require, amongst other things, the Panel to strike the appropriate balance between the competing interests of the applicant, the premises licence holder, the interested parties and the wider community. This balance is achieved by having regard to the provisions of the Licensing Act 2003; the Regulations and Guidance made thereunder, the Council's Statement of Licensing Policy and the Council's obligation to act in a way that is consistent with the provisions of the Human Rights Act 1998.

11. Crime and Disorder

The Prevention of Crime and Disorder is a specific licensing objective and the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its district.

12. Conclusion

Having considered the application, representations, written and oral submissions made at the hearing, the Panel shall determine the application.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	Yes	Equalities and Diversity	No
Crime and Disorder	Yes	Consultation	No
Environmental	No	Access to Information	No
Sustainability	No	Exempt from publication	No
Risk Management	No		

Chief Executive:	Malcolm Johnston
Report Contact Officer:	Mark Randolph, Senior Licensing Officer
e-mail address:	licensing@rother.gov.uk
Appendices:	Appendix A: Operating schedule Appendix B: Location plan Appendix C: Proposed licensed area Appendix D: Photographs Appendix E: Representation from a responsible authority Appendix F: Representations received from interested parties
Relevant Previous Minutes:	N/A
Background Papers:	NONE
Reference Documents:	Revised guidance issued under Section 182 of Licensing Act 2003 (Chapter 11 – Reviews) https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003 RDC Licensing Policy 2021 https://www.rother.gov.uk/wp-content/uploads/2021/02/Rother-Licensing-Policy.pdf

Operating Schedule.

How the applicant intends to promote the four licensing objectives. These will be translated into conditions included in the licence (unless the conditions are modified by the licensing authority following consideration of relevant representations).

List here steps you will take to promote all four licensing objectives together.

Alcohol will not be sold or supplied on the premises other than to persons who are partaking of a table meal and for consumption by such a person as ancillary to their meal. Suitable beverages other than alcohol shall be available at all times the premises are open.

b) The prevention of crime and disorder

All members of staff will receive training on the law and their responsibilities in selling alcohol before being authorised to sell alcohol by a personal licence holder. Refresher training will be provided every 3 months. All training of staff must be recorded and the record of training signed by both the employee and the DPS. Those records must be kept for a minimum of 12 months and made available for inspection upon request by the Police or an officer of the Local Authority.

A list of staff members who have been authorised to sell alcohol shall be maintained. The list must be signed by the DPS and dated as to when the authorisation commenced for each employee.

An incident log will be maintained containing a detailed record of every alleged crime committed on the premises. The log shall be inspected and signed by the DPS, or other person authorised by the DPS, at a minimum of 4 weekly intervals. The log shall be made available for inspection upon request by the Police or an officer of the Local Authority.

A log (electronic or written) will be maintained to record each occasion a sale of alcohol is refused.

The premises licence holder or the DPS will provide regular feedback to staff regarding the entries in both the incident log and the refusal log.

c) Public safety

All indoor and outdoor areas will be well lit and maintained to a high standard.

d) The prevention of public nuisance

No outdoor space connected to the premises shall be used by customers.

A notice will be displayed in a prominent position in the premises advising customers to leave the premises quietly and to respect the neighbours.

Customers must leave the premises by 2300 subject to an early time specified by the planning permission.

Electrical hand drying facilities within the premises shall not be affixed to any party wall.

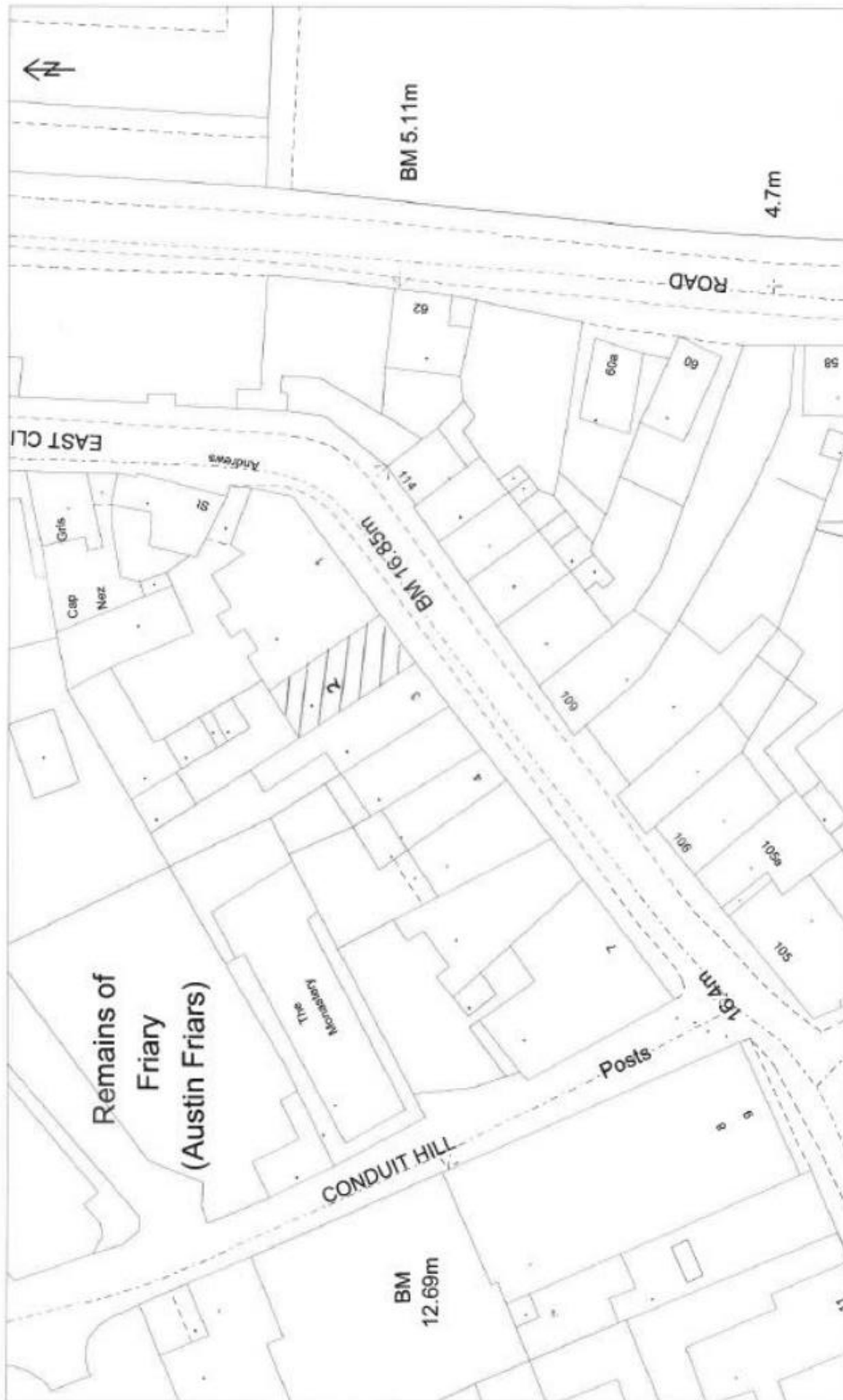
A grease trap shall be fitted to the foul water drainage system.

e) The protection of children from harm

The premises will operate a Challenge 25 policy whereby any person appearing to be under the age of 25 when purchasing alcohol will be asked for photographic ID to prove they are over the age of 18. The recommended forms of ID are: passports; official Photographic ID cards issued by EU states with either a hologram or ultraviolet feature; driving licences with a photograph; photographic military ID cards or Proof of Age ID cards with the PASS hologram. This list of recommended forms of ID may be amended or revised with the prior written consent of the Police or Local Authority without the need to amend this condition.

Signage advertising the Challenge 25 policy will be displayed prominently within the premises.

Location plan

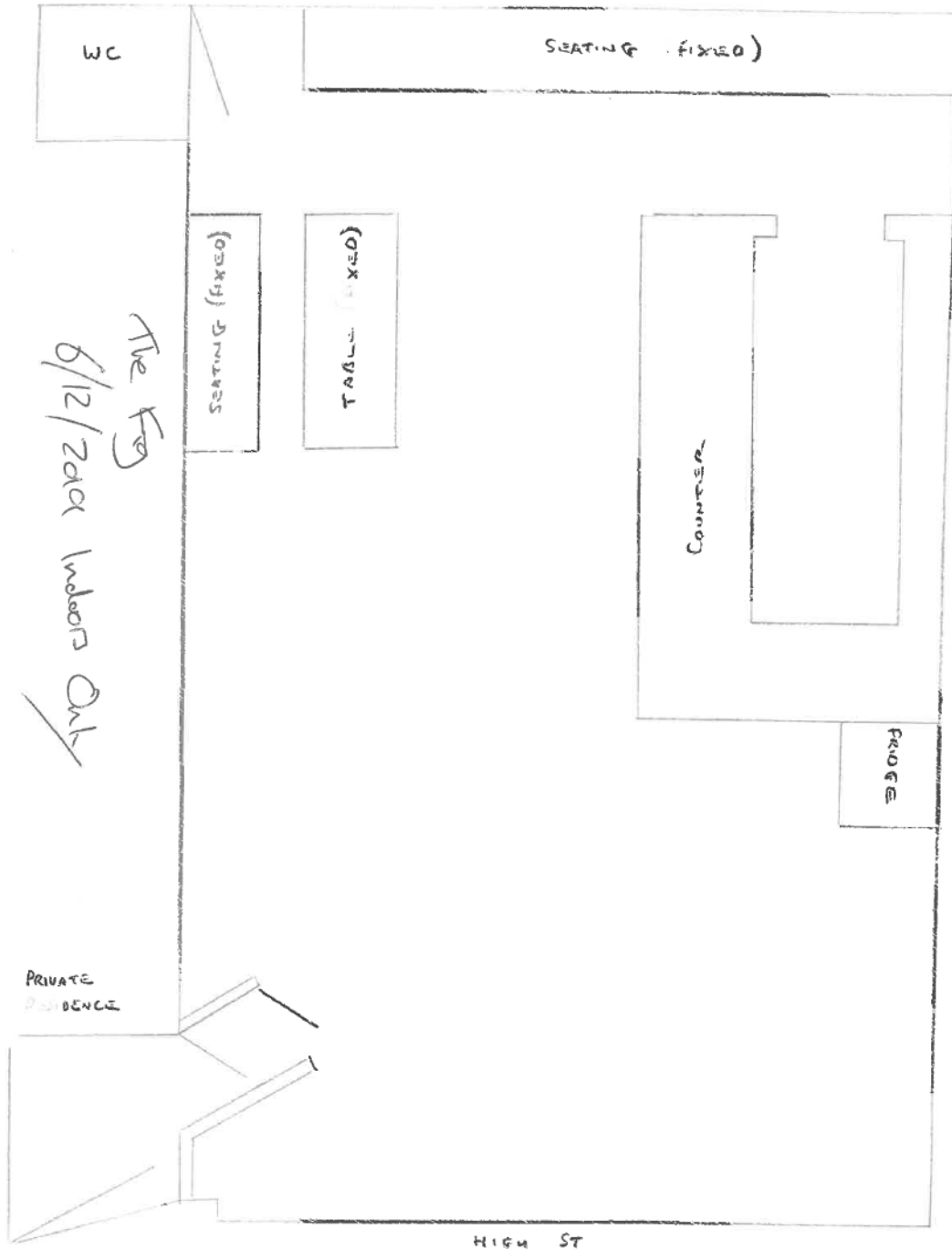


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Proposed licensed area.

(The same licensed area as per the existing premises licence LN/000024152)

THE FIG. N°2 HIGH ST. RYE TN31 7JE



Photographs.

1. The premises.



2. The premises.



3. A view of the High Street towards the premises marked by an arrow; Conduit Hill is directly to the left.



4. A view of the High Street, the premises in on the right.



Representations from Responsible Authorities:

1. RDC Pollution Control

From: Steve Biggs
Sent: 02 March 2021 12:01
To: licensing
Cc: Mark Randolph
Subject: Premises Licence Application - The Fig (Rye) Ltd, 2 High Street , Rye TN31 7JE

Dear Licensing

I refer to the request for comments relating to the new premises licence application for the Fig in Rye .

I can advise that I have no objections to the application based on the details submitted and the past history of both the premises and its management.

The pollution team has previously only received one complaint in December 2019 relating to noise. This was made by a local resident about early morning deliveries by a small refrigerated van. No evidence was found to substantiate the complaint and the matter was resolved informally.

I would make reference however to the need for the premises operator to be permitted to keep windows open while the premises is trading. I understand that previously the licence holder was required to keep all windows closed and this was varied on appeal. There are legal duties on a food business operator under both health and safety at work and food safety legislation for a food premises / workplace to be adequately ventilated. Furthermore during the current coronavirus pandemic fresh air ventilation through open windows and doors is considered to be a recommended means of mitigation against transmissibility of infection.

Regards

Steve Biggs

Senior Environmental Health Officer

Environmental Health Service for Rother and Wealden Councils