

Rother District Council

DECISION NO: 2

GENERAL LICENSING PANEL DECISION NOTICE**Date of General Licensing Panel Meeting: 31 January 2023**

Venue: Town Hall, Bexhill-on-Sea

Date of Decision: 31 January 2023

**NAME AND ADDRESS OF
PREMISES:**Tibbs Farm Café, Udimore Road, Udimore, East Sussex,
TN31 6AR**NAME(S) OF APPLICANT:**

Mr Philip Wheeler

**REASON(S) FOR
REPORT:**

The report had been subject to one representation on the grounds of crime and disorder, public safety and public nuisance.

DECISION MADE AND REASONS FOR IT:**Reasons for the Decision**

Members of the Panel had been asked to consider a new application for a premises licence under S.18 of the Licensing Act 2003 (the Act). One local resident had made a relevant representation against the application.

The Panel was provided with a report that detailed the application, together with the supporting documentation and the representation. In considering the application, the Panel also had regard to the Council's own Statement of Licensing Policy, and the Secretary of State's S.182 Guidance under the Act.

The Panel was mindful of the permissive nature of the licensing regime however also kept in mind the rural location of the premises and the impact of noise on the same.

Having heard submissions from the parties, the Panel believed that granting the licence would likely increase the noise at the premises where noise already appeared to be an issue. The Panel concluded the likely noise generated as a result of the licensable activity would undermine the licensing objective public nuisance.

While the applicant's offered conditions and conditions agreed with Sussex Police assisted to alleviate this concern, in particular the requirement for a dispersal policy agreed by Sussex Police, the Panel believed reducing the hours for the proposed licensable activity (on and off sale/supply of alcohol) to between 09:00 and 21:00, as well as imposing opening and closing hours of 08:00 and 22:00 at the premises would satisfy that objective.

The Panel were mindful that the noise from disposing of bottles in outside areas would also undermine the licensing objective public nuisance and therefore amended the offered condition to prohibit rubbish being moved, removed or placed in outside areas between 21:00 and 08:00 so as to be in-keeping with the imposed opening and closing times and times permitted for the sale/supply of alcohol.

Decision Made

That the application for the premises licence be granted consistent with the Operating Schedule and with sale/supply times as outlined below.

Monday to Sunday 09:00 to 21:00hrs (On and Off the premises)

Conditions offered by the applicant

a) The prevention of crime and disorder

Café Bar:

Alcohol will only be served to people for consumption whilst seated at tables. Food will be always available when the premises is open and trading. The primary use of the premises shall be as a café, not be that of a bar and any promotions and advertising will refer to it as such.

Training/Authorisation:

The Premises Licence Holder will ensure that all staff members, including delivery staff, engaged, or to be engaged, in selling alcohol, at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- The lawful selling of age restricted products
- Refusing the sale of alcohol to a person who is drunk

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed eight weeks, with the date and time of the verbal reinforcement/refresher training documented.

All such training undertaken by staff members will be fully documented and recorded and signed by both the employee and the DOS. All training records will be kept on the premises and made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

A list of staff members who are authorised to sell alcohol on the premises will be kept. The list shall be endorsed by the DPS with the date such authorisation commences.

b) Public Safety

All parts of the premises and all fittings and apparatus therein, door fastenings and notices and the seating, lighting, heating, electrical, ventilation, sanitary accommodation, washing facilities and other installations, will be maintained at all times in good order and in a safe condition.

The requirements to comply with The Regulatory Reform (Fire Safety) Order 2005 will be met. A fire risk assessment and a Fire Evacuation plan will be completed. Suitable early means of early detection such as smoke detectors, fire alarms will be installed. Staff will be trained in the emergency evacuation plan.

c) Prevention of public nuisance

Noise or vibration will not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. In general terms, noise from the premises should not be audible within any noise sensitive premises (e.g. dwelling) with windows open for normal ventilation. This will be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises.

The volume of amplified sound used in connection with the entertainment provided will at all times be under the control of the Licensee/Management and the controlling mechanism shall be operated from a part of the Premises not accessible to the public.

Noise levels within the premises resulting from the operation of any musical instrument or amplified equipment will be regulated so as to protect the hearing of any employee therein in accordance with current standards.

Prominent, clear and legible notices will be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

No rubbish including bottles will be moved, removed or placed in outside areas between 21:00hrs and 08:00hrs.

The placing of refuse such as bottles, into receptacles outside the premises takes place at times that will prevent disturbance to nearby properties.

Deliveries of kegs, bottles, food or other materials necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.

d) Prevention of children from harm

A notice shall be displayed in and at the entrance to the premises where it can be clearly seen and read and shall indicate that it is unlawful for persons under 18 to purchase alcohol or for any person to purchase alcohol on behalf of a person under 18 years of age.

The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

Conditions agreed with Sussex Police

CCTV:

Subject to GDPR guidance and legislation:

- (a) Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the

entrances/exits to the premises as well as any outside space. The system shall be on and recording at all times the premises licence is in operation.

- (b) The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- (c) CCTV footage will be stored for a minimum of 31 days.
- (d) The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- (e) The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
- (f) The management of the premises will ensure that key staff are fully trained in the operation of the CCTV and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Police e.g. USB) or provide footage via an online link as initiated by Police, without difficulty or delay and without charge.
- (g) Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
- (h) In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

Training/Authorisation:

- a) The Premises Licence Holder shall ensure that all staff members engaged, or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products: *The lawful selling of age restricted products *Refusing the sale of alcohol to a person who is drunk* Know how to operate the CCTV system and including the downloading of the footage*.
- b) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 8 weeks, with the date and time of the verbal reinforcement/refresher training documented.
- c) All such training undertaken by staff members shall be fully documented and recorded and signed by both the employee and the DPS. All training records shall be kept on the premises and made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
- d) A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.

Challenge 25:

- a) The premises will operate an age verification policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram.
- b) Signage advertising the age verification or 'Challenge 25' policy will be displayed in prominent locations in the premises.

Incident/Refusal Log:

- a) An incident/refusal log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at intervals of no more than four (4) weeks.
- b) The logbook should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.
- c) Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.
- d) Any refusals made for alcohol service e.g. underage, will also be recorded within this log (either in electronic or written form) and feedback given to staff as relevant. The log will be kept at the premises for a minimum of twenty-four (24) months.

Café Bar:

- a) Alcohol shall only be supplied by waiter/waitress service to people seated at tables.
- b) Food shall be always available when the premises is open and trading. The primary use of the premises shall be as a café, not be that of a bar and any promotions and advertising will refer to it as such.

Outside Areas:

- a) Any empty glasses or bottles will be immediately cleared from the outdoor seating by staff and management.
- b) Any broken glass from the premises will be immediately cleared and cleaned up by the staff of 'TIBBS FARM CAFE'.

OFF Sales:

All sales of alcohol, for consumption off the premises, to be made in a sealed container.

SIA:

All pre-booked events shall be risk assessed by the Designated Premises Supervisor and a minimum of two SIA registered door staff shall be on duty on any occasion where the risk assessment shows it to be necessary. The door staff shall be on duty from 30 minutes prior to the start of the event until 30 minutes afterwards.

There will be a written Dispersal Policy in place as agreed with Sussex Police to prevent groups gathering, engaging in altercations and persons remaining in the vicinity of the premises.

Additional Conditions

Prevention of public nuisance

The licensed premises may be open to the public between the hours of 08:00 and 22:00 on the following days, Monday to Sunday.

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.