

## Swale Borough Council

**Report to:** Licensing Sub – Committee (Under the Licensing Act 2003)  
**Date:** 25<sup>th</sup> July 2018 at 14:30  
**Report Author:** Christina Hills – Licensing Officer  
**Subject:** The Flying Sheep Micro Pub, 193 High Street, Sheerness, Kent ME12 1UJ

### **Purpose and summary of report:**

To consider an application, to which representations have been made, for a new Premises Licence application under the Licensing Act 2003 – application reference number SHE/SWALE/189/0703

### **Recommendations:**

The Committee is asked to determine the application and decide whether to grant a licence. Members asked to consider the application on its merits.

Background papers: The Licensing Act 2003  
DCMS Guidance Documents issued under Section 182 of the Licensing Act 2003 as amended  
Swale Borough Council Statement of Licensing Policy

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The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making a decision on applications made under the Act. The Policy will be available at the meeting for reference purposes.

Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review. Should the need arise the Guidance will be available at the meeting for reference purposes.

The Licensing Authority must, under the Act refer any application for hearing to the Licensing Panel, if relevant representations are made by a responsible authority or other person. A copy of the Council's approved procedure for hearings of the Panel in relation to an application, along with a copy of the Hearings Regulations has been circulated to all parties prior to the meeting.

## **Report Title: The Flying Sheep Micro Pub, 193 High Street, Sheerness, Kent ME12 1UJ**

Application for: A Premises Licence to be granted under the Licensing Act 2003

### **Purpose of the report:**

The report advises Members of an application for a Premises Licence to be granted under the Licensing Act 2003, made by Richard Smith and Amanda Williams, in respect of premises The Flying Sheep 193 High Street, Sheerness, Kent ME12 1UJ (Appendices A and B) in respect of which one (1) representation has been received from a member of the public (Appendix C).

### **1. Issues to be decided**

Members are asked to determine whether to:

- (i) grant a licence subject to conditions consistent with the Operating Schedule modified to such an extent as considered appropriate for the promotion of the licensing objectives and any mandatory conditions,
- (ii) grant a licence but excluding any of the licensable activities applied for,
- (iii) grant a licence but refusing to specify a premises supervisor,
- (iv) reject the application.

### **2. Background**

The Licensing Act requires the Council as licensing authority to carry out its various licensing functions so as to promote the following four licensing objectives:

- (i) the prevention of crime and disorder;
- (ii) the protection of public safety;
- (iii) the prevention of public nuisance;
- (iv) the protection of children from harm

### **3. The Application**

- 3.1 On 11<sup>th</sup> June 2018 an application was made which was fully complete, from Richard Smith and Amanda Williams for the grant of a Premises Licence under section 17 of the Licensing Act 2003 in respect of premises at The Flying Sheep, 193 High Street, Sheerness, Kent ME12 1UJ. The application is for the supply of alcohol.
- 3.2 The proposed hours of the licensable activities are as follows:  
  
Monday – Thursday and Sunday 11:00 until 23:00  
Friday and Saturday 11:00 until 00:00  
Bank Holidays and Christmas Eve 11:00 until 00:00  
New Year's Eve 11:00 until 01:00
- 3.3 A copy of the application and plan, which includes the operating schedule that details the steps the applicant intends to take to address the licensing objectives are shown as Appendices A and B.

3.4 The application has been correctly advertised in the local press the Sheerness Times Guardian. The consultation period ended on 9<sup>th</sup> July 2018. The required public notice was correctly displayed during the whole of the consultation period.

3.5 The proposed Designated Premises Supervisor is Rachel Elizabeth Collier.

### 3.6 Representations

3.6.1 Representations from responsible authorities:

- Kent and Medway Fire & Rescue Service – No representations
- Kent County Council Trading Standards – No representations
- Kent County Council Services Children and Families – No representations
- Kent County Council Public Health – No representations
- Environmental Health – Swale Borough Council – No representations
- Kent Police – Have made no representations however they seek the attachment of the following conditions to assist in the promotion of the licensing objectives:

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs.

Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 31 days and handed to Police upon reasonable request.

The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request.

In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer within 24 hours unless the CCTV will be repaired before that time ([licensing.north.division@kent.pnn.police.uk](mailto:licensing.north.division@kent.pnn.police.uk))

2. All persons that sell or supply alcohol to customers must have licensing training.
- a. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place.
  - b. Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation.
  - c. Training records must be kept on the premises and shall contain the nature, content and frequency of all training.
  - d. 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.
3. The licensee shall ensure that no customers will take glasses or open bottles from the premises.
4. The premises shall have a written drugs policy, this will detail the strategies to minimise the use and supply of illegal drugs within the

premises. The drugs policy shall include a structured training policy for all staff covering the issues of misuse of drugs in relation to licensed premises. Records must be kept to show members of staff who have taken the training.

5. The Licence holder shall erect and maintain clear and prominent notices displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

6. The premises licence holder or designated premises supervisor must keep an incident register. Staff are to be trained to complete an incident book/record immediately after the incident but no later than the end of their shift.

The register must be kept on the premises and will detail

- Day, date and time of incident
- Nature of incident
- Resolution
- Each entry is to be checked and signed by the DPS/Licensee no later than 1 week after the entry has been made. The register must be made available to Police, Police Licensing Officers and authorised officers from the Local Authority either electronically or hard copy

The applicants have already agreed to have these conditions added to a Premises Licence should it be granted.

3.6.2 There has been one (1) representation(s) from a member of the public. This is shown at Appendix C. This representation also includes a copy letter that was previously submitted to the Planning Committee but which includes representations that are relevant to the licensing objectives.

Responsible Authority / Other person	Licensing Objective	Associated Documents	Appendix
Members of the Public	Public Nuisance Crime and Disorder	(1) letter	C

#### 4. Policy Considerations

The following provisions of the Secretary of State’s Guidance apply to this application:

Chapter 2 – The licensing objectives

Chapter 8 – Applications for premises licences

Chapter 9 – Determining applications

Chapter 10 – Conditions attached to Premises Licences

The following paragraphs of the Council's Statement of Licensing Policy apply to this application:

Sections 2.1 to 2.4 – These sections set out the Council's approach with regard to licensing and details other mechanisms to deal with potential problems.

Section 1.1 to 1.4 – These sections set out the four licensing objectives and identifies matters that may be relevant to the promotion of each licensing objective.

#### **4. Determining the application – Options of the Panel**

The Panel must, when reaching a decision on the outcome of the application, take into account the licensing objectives. Having had proper regard to the matters above the Panel may:

- (i) Grant the licence application as applied for;
- (ii) Modify the activities or conditions proposed or add any new conditions;
- (iii) Refuse to specify a person in the licence as designated premises supervisor
- (iv) Reject the whole or part of the application

- 4.1 Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under the Section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

**Section 17 of the Crime and Disorder Act 1998** states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area”.

#### **5. Implications Assessment**

The decision should be made with regard to the Secretary of the State's guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the Policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.

#### **6. Human Rights**

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

## **7. Recommendations**

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

## **8. List of Appendices**

Appendix A – Application form

Appendix B - Plan

Appendix C – Representation (Member of Public) against the application

Appendix D - Order of proceedings

## **9. Appeals**

The applicant or any other person (objector) may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an Adverse Cost Order should they bring an appeal