

Agenda Item No:

Report No:

Report Title: Application for the Variation of a Premises Licence. The Captain's Table, Newhaven

Report To: Licensing Sub-Committee **Date:**

Report By: Director of Planning and Environmental Services

Contact Officer(s): Tim Albright Environment Health Manager
Garry Clark Licensing Officer

1. The Application:

1.1 Applicant: A & C Catering, The Forge, Horsehill Road, Hookwood, Horley RH6 0HN

1.2 Premises: The Captain's Table, Villandry, West Quay, Newhaven. BN9 9BE.

1.3 Type of application: Application for the variation of a Premises Licence to be granted under the Licensing Act 2003.

1.4 Proposed Variation:

1.4.1 To vary the cafe/bar condition on the licence to allow limited stand up drinking in the vicinity of the bar area at the front of the premises. To remove the requirement for waiter/waitress service within the premises but to retain this condition for service outside on the patio area at all times.

1.4.2 To approve amended plans to the bar which has been altered to permit access on two sides.

1.5 Current licensable activities authorised:

Sale of alcohol on the premises Monday to Sunday 7am to 11pm.
Opening hours Monday to Sunday 7am to 1130pm.

1.6 Steps to promote the Licensing Objectives:

The applicant has the following conditions on the premises licence to promote the four licensing objectives.

1.6.1 General:

An easily observed premises selling the usual range of alcohol alongside substantial and lighter food refreshments a family business with some additional staff all of whom will receive training in both the law and the conditions on any licence issued and be under the direct supervision of the DPS.

- 1.6.2** The prevention of crime and disorder:
The premises will operate both inside and outside on the patio under Cafe Bar Conditions whereby patrons will be served seated at tables and chairs by waiter/waitress and substantial refreshments other than alcohol and including food will always be available.
- 1.6.3** Public safety:
The premises will be fitted out to modern specifications and a full risk assessment carried out prior to opening, equipment will be maintained and tested and records kept and all staff will be trained in raising the alarm, evacuation and use of the equipment.
- 1.6.4** The prevention of public nuisance:
No alcohol will be allowed to be removed from the premises, there will be no regulated entertainment and patrons will clear from the patio area when service to that area ceases at 10pm.
- 1.6.5** The protection of children from harm:
Children will be permitted on the premises as is allowed by law but any young person attempting to buy alcohol will be asked for ID especially persons under the apparent age of 21.
Only photographic ID such as passport or Driving Licence, and other approved ID cards including those used under the 'Pass' scheme will be accepted. Notices will be displayed advising customers of this and the law regarding underage sales and staff training will be carried out.
- 1.6.6** Conditions attached after a Hearing by the Licensing Authority:
Signs will be displayed in visible places inside and outside the premises advising customers to respect the peace and quiet of local residents at all times.
- 1.7** **Conditions subject of variation application:**
The applicant has applied to remove the standard café bar condition as set out on the licence under crime and disorder and replace with the following.
- 1.7.1** General:
Staff re-training session will be carried out covering the changes to the licence conditions.
- 1.7.2** Crime and Disorder:
Café bar service and substantial refreshment together with a minimum of forty chairs and relevant tables will be available at all times within the premises for customer service.
Service to the outside patio area will be by waiter/waitress to customers seated at tables.
- 1.8. Alteration to approved plans:**
The approved plans for the premises that form part of the licence

show the bar as having customer access on one side only. However the bar has been altered to allow access on two sides which increases the drinking area available to customers. This variation application requests for those plans to be approved.

2. Background Information:

- 2.1** The Captain's Table is a purpose built single storey retail unit situated beneath and at one end of a modern apartment complex on the West Quay at Newhaven. It has an outside walled patio area for customer use and there are other retail units alongside including an angling shop and a convenience store and off licence. The retail units are set back from the road with an area in front for vehicle parking and access to the various premises. Above the retail units are residential accommodation and the front of Villandry is on Fort Road and directly opposite the Harbourside Inn. Further down West Quay marina towards the river are three large additional apartment blocks all of which form part of the Cape development at the marina and regeneration of this area.
- 2.2** The Captain's Table is an all day cafe serving breakfast and the customary main meal together with a wide range of other substantial food, snacks, soft drinks including tea and coffee. It has been open since March 2009 having been purchased by the applicants and has been fully furnished with a counter for service and food display, tables and chairs and an attractive outside area with patio tables and chairs. To the front of the premises adjacent to the entrance is a small purpose built bar for the service of alcohol which permits limited stand up drinking. The premises can cater for approximately 30 covers inside and an additional 30 covers outside, weather permitting. It currently trades Monday to Sunday 7am to 5pm or later and to enhance customer choice it now wishes to vary the conditions to allow the supply alcohol to customers at the bar and retain waiter/waitress service to the outside area at all times. Substantial food will be available throughout the opening hours.
- 2.3** Since the premises opened in March 2009 there has been one complaint of noise or public nuisance from a resident at Villandry concerning two customers at the premises remaining outside after closing.
- 2.4** As a result of the Licensing Officer visiting the premises at 3.30pm on Friday 20 April 2012 it was observed that about four customers were sitting on stools round the bar drinking. The Designated Premises Supervisor Mrs King was informed that the conditions on the licence did not allow this type of service and that it only permitted for waiter waitress service to customers seated at tables under the current cafe bar conditions. She was advised that to change the operating profile of the premises to allow drinking at the bar then a full premises licence variation would be required.

- 2.5** On Wednesday 9 May 2012 Assistant licensing Officer Susan Lindsey visited The Captain's Table and observed from outside that there were at least six customers seated on stools and some standing at the bar in the premises. She did not enter the premises but from her observations they all appeared to be drinking.
- 2.6** A letter was sent to Mrs King by the Licensing Officer on 10 May 2012 giving a final warning concerning the management of the premises and the breach of the licence conditions. Appendix 1.
- 2.7** On Sunday 3 June 2012 a temporary event notice for the Jubilee celebrations was in force for the premises covering the supply of alcohol and regulated entertainment until 9pm that evening. Lewes District Council noise and licensing patrol on duty that night visited the Captain's Table at 1045pm and observed that there were six people inside the premises sitting and standing at the bar and from the officers observations all appeared to be drinking. This was outside of the time limit permitted by the temporary event notice and accordingly the supply of alcohol at the bar would have been in contravention of the cafe bar condition attached to the licence.
- 2.8** As the Licensing Officer I have concerns about the management of the premises and the supervision by the designated premises supervisor Mrs King to ensure the existing licence conditions are being complied with at all times. There has been a verbal and written warning given by the Licensing Officer and yet despite this there has been a further breach of the conditions witnessed by Council Officers on 3 June 2012.

3. Representation received:

3.1 Responsible authorities

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| 3.1.1 <u>Police:</u> | No comment |
| 3.1.2 <u>Environmental Health:</u> | No comment |
| 3.1.3 <u>Fire Officer:</u> | No comment |
| 3.1.4 <u>ESCC – Child Protection:</u> | No comment |
| 3.1.5 <u>Trading Standards:</u> | No comment |
| 3.1.6 <u>Health & Safety Executive:</u> | No comment |
| 3.1.7 <u>Planning</u> | No comment |

3.2 Interested parties:

- 3.2.1** Letters and emails received within the relevant time wishing to make representations about the application by The Captain's Table are attached at Appendix 2. There are three representations from residents occupying the flats above the premises at Villandry and a further representation from Mayo Wynne Baxter solicitors on behalf of Villandry Property Limited.

3.2.2 The grounds for their objections are that the application will undermine one or more of the Licensing Objectives relating to crime and disorder and public nuisance. They are considered to be relevant to the application and not frivolous or vexatious

4. Licensing Policy Considerations:

4.1 Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003.

4.2 The aims of the Policy are to secure the safety and amenity of residential communities, help to ensure a sustainable environment, and to provide regulation of the cultural/entertainment industry and to promote the four Licensing Objectives of the Act.

- Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Protection of children from harm

4.3 The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

4.4 The Council will support cafe bar conditions where the sale of alcohol and other beverages are by waiter/waitress service for consumption by persons seated at tables or equivalent and substantial refreshments are available during operating hours.

4.5 Any person has a right to make representations concerning applications for the variation of a premises licence and to have those representations given equal weight regardless of the area of the District in which they live.

4.6 In each case that arises following representations the Policy states the Council will:

- a) Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of local residents to peace and quiet.
- b) Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.

4.7 The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representation and it has been satisfied at a hearing that it is

appropriate to impose conditions due to the representations raised. It may then only impose conditions as appropriate to promote the Licensing Objectives arising out of consideration of the representations.

5. National Guidance:

- 5.1** The Council may attach conditions to the licence in consideration of the application and Section 10 of the National Guidance provides advice and recommendations concerning best practice in relation to conditions attached to premises licences.

6. Financial Implications:

There are no financial implications to this report

7. Environmental Implications:

I have completed the Environmental Implications questionnaire and there are no significant effects as a result of these recommendations

8. Risk Management Implications:

I have completed the Risk Management questionnaire and this report does not require a risk assessment.

9. Equalities Implications:

I have completed the Equalities Implications questionnaire and there are no significant effects as a result of these recommendations.

10. Background Papers:

Application for the variation of a premises licence for The Captain's Table including amended plan showing bar alterations.

11. Appendices

1. Letter to Mrs King from the Licensing Officer regarding compliance with licence condition.
2. Emails and letters of representation from objectors.

12. Plans.

Plan of premises layout 'The Captain's Table' as approved.
Street plan of premises location West Quay, Newhaven
Photographs of premises and surrounding area.