

Report to: Licensing Sub-Committee

Date: 20 March 2023

Title: Application for a new Premises Licence, The Salts Café, The Salts Recreation Ground, Seaford, BN25 1DR

Report of: Director of Service Delivery

Ward(s): Seaford Central

Purpose of report: To consider representations made against the new Premises Licence application under the Licensing Act 2003 and make a decision on the application.

Officer recommendation(s): To consider representations made against the new Premises Licence application under the Licensing Act 2003 and make a decision on the application.

Reasons for recommendations: Relevant representations made within consultation period

Contact Officer(s): Name: Jade Marshall
Post title: Specialist Advisor - Licensing
E-mail: jade.marshall@lewes-eastbourne.gov.uk
Telephone number: 07984552275

1 Introduction

- 1.1 Lewes District Council received an application for a new Premises Licence under the Licensing Act 2003 for The Salts Café, The Salts Recreation Ground, Seaford, BN25 1DR from Papachinos Limited (**Appendix 1**).
- 1.2 The applicant also submitted a site plan for the café with the licensable area outlined in red. (**Appendix 2**).
- 1.3 The Salts Café is on the south of The Salts recreational ground off Marine Parade. Next to the café is the children's playground. The recreational ground is between a residential area on two sides, the railway line to the north and open to the road and seafront on the south side.
- 1.4 The nearby Rugby and Cricket clubs hold a Club Premises Certificate each however this does not cover these premises or licensable activities.

2 The Application

- 2.1 An application for the grant of a new premises licence under the Licensing Act 2003 for the following licensable activities:

2.2 **Sale by Retail of Alcohol (On and Off the Premises)**

Monday to Sunday 09:00hrs until 00:00hrs

2.3 **Recorded Music (Indoors only)**

Monday to Sunday 09:00hrs until 23:00hrs

2.4 **Late Night Refreshment (Indoor and Outdoors)**

Monday to Sunday 23:00hrs until 00:00hrs

2.5 **Opening Hours**

Monday to Sunday 09:00hrs until 00:00hrs

3 **Licensing Objectives**

- 3.1 When applying for a new premises licence under the Licensing Act 2003, the applicant is required to describe any steps they intend to take to promote the four Licensing Objectives as defined by the Licensing Act 2003. The Operating Schedule detailing these steps can be seen in the application form. This is included at **(Appendix 1)**

4 **Consultation Process**

- 4.1 The Licensing Act 2003 requires applicants to advertise both on the premises and in a local newspaper in order to inform the public of the application. The application details are also advertised on the council's website. Several "Responsible Authorities" have also been consulted as part of the process. There was a consultation period of 28 days, from 23rd January 2023 to the 20th February 2023, for representations to be made. The applicant conformed with all the requirements as laid out within The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

It is acknowledged there within these representations there are complaints in regards to the positioning of the public notice. However, these were checked by Jade Marshall, Licensing Officer who can confirm that the notices were positioned at all sides of the premises as well as on a lamppost on Marine Parade.

- 4.2 During the consultation period no representations were made by the responsible authorities however, Sussex Police agreed conditions with the applicant. This also included the removal of 'Off Sales'. **(Appendix 3)**
- 4.3 During the consultation period a number of representations were submitted by members of the public as laid out below.
- 4.4 5 Individual Representations **(Appendix 4)**.

4.5 1 representation (template letter) received from 20 members of the public (**Appendix 5**), and effectively the same representation supported by a petition signed by 68 people. (**Appendix 6**).

4.6 Members are asked to note that not all the information provided within these representations is valid within the Licensing Act 2003.

5 The Decision Making Process - The Licensing Objectives

5.1 In their decision making, the Licensing Sub-Committee must act to promote the four Licensing Objectives. All carry equal weight as part of the process. The Licensing Objectives are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

5.2 A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a likely effect of a grant (i.e. more probable than not)

6 Lewes District Council's Statement of Licensing Policy & Section 182 Guidance

6.1 Copies of the Council's Statement of Licensing Policy have previously been circulated to Members. A copy is also retained in the Members' Room.

6.2 Whilst each application will be considered on its merits, the Licensing Sub-Committee will act to promote the four licensing objectives and have due regard to:

- Lewes District Council's Statement of Licensing Policy 2022
- Section 182 Guidance issued by the Home Office.

6.3 Lewes District Council's Statement of Licensing Policy outlines the matters that the Authority will consider when determining matters under the Licensing Act 2003. An overview of the relevant part of the Licensing Policy as referred to in the representations appears below.

6.4 The Licensing Sub Committee will 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 residents to peace and quiet. It will examine the potential steps which could be taken to reduce the risk of these matters particularly in areas of dense residential accommodation. It will consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives would be undermined.

7 Representations

7.1 A copy of the representations are included at **Appendix 4,5, and 6** however a summary appears below:

<p>‘Interested Parties’ Twenty Five representation and One petition have been received, the representatives have made comments relevant to the Prevention of Crime and Disorder, Public Safety, The Prevention of Public Nuisance and The Protection of Children from Harm.</p>
<p>Representations from Responsible Authorities</p> <p>The following summarises whether representations have been received from responsible authorities:</p> <ul style="list-style-type: none">➤ Sussex Police – No representation. Agreed Conditions➤ Lewes District Council (Specialist Advisor) Environmental Health – No representation➤ Lewes District Council (Specialist Advisor) Health and Safety – No representation.➤ Lewes District Council (Specialist Advisor) Planning – No representation.➤ Lewes District Council (Specialist Advisor) Licensing – No representation➤ East Sussex Fire and Rescue Service – No representation➤ Area Child Protection Team– No representations➤ Trading Standards (East Sussex County Council) – No representation.➤ Primary Care Trust- No representation

<p>‘Interested Parties’ Twenty Five representation and One petition have been received, the representatives have made comments relevant to the Prevention of Crime and Disorder, Public Safety, The Prevention of Public Nuisance and The Protection of Children from Harm.</p>
<p>Representations from Responsible Authorities</p> <p>The following summarises whether representations have been received from responsible authorities:</p> <ul style="list-style-type: none">➤ Sussex Police – No representation. Agreed Conditions➤ Lewes District Council (Specialist Advisor) Environmental Health – No representation➤ Lewes District Council (Specialist Advisor) Health and Safety – No representation.➤ Lewes District Council (Specialist Advisor) Planning – No representation.

- **Lewes District Council (Specialist Advisor) Licensing – No representation**
- **East Sussex Fire and Rescue Service – No representation**
- **Area Child Protection Team– No representations**
- **Trading Standards (East Sussex County Council) – No representation.**
- **Primary Care Trust- No representation**

Mediation was offered to the applicant however due to the volume and nature of the representations it was considered that any mediation would not be productive.

8 Options open to the Sub-Committee

8.1 The Licensing Sub-Committee shall take the steps it considers appropriate for the promotion of the Licensing Objections and may:

- Grant the Licence in the same terms as it was applied for.
- Grant the Licence but modify the conditions as appropriate for the promotion of the licencing objectives.
- Grant the Licence but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives.
- Reject the application.

8.2 The Sub-Committee is asked to note the procedures relating to this hearing which are contained in The Licensing Act 2003 (Hearing) Regulations 2005 (as amended).

8.3 In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered appropriate and proportionate on a case-by-case basis. The applicant, any person or any Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives. The Sub-Committee may not impose any condition unless its discretion has been exercised following receipt of a relevant representation and is satisfied that it is appropriate to promote one or more of the licensing objectives.

9 Financial appraisal

9.1 The cost of delivering the licensing function is fully covered by the Licensing fees.

9.2 A decision made by the Sub Committee may be appealed by any party to the proceedings to a Magistrates' Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council. The impact of these additional costs (if any) will therefore need to be met from within existing revenue budgets.

10. Legal Implications

- 10.1 Under section 18 Licensing Act 2003 (as amended), following receipt of an application for a premises licence, if a relevant representation is received, unless all parties agree that a hearing is unnecessary, the Licensing Authority must hold a hearing. At the hearing the Sub Committee shall, having regard to the representations, take such steps as it considers appropriate for the promotion of the licensing objectives. The relevant options are outlined in para. 8.1 of this Report.
- 10.2 The Licensing Sub Committee should be mindful of the requirements and responsibilities placed upon them by other legislation, in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the relevant parts of the Equality Act 2010, the Human Rights Act 1998 and the Crime and Disorder Act 1998.
- 10.3 Under section 181 and Schedule 5 Licensing Act 2003 there is a right of appeal to the Magistrates' Court in respect of applications for new licences. This right of appeal is open both to the applicant and to any person who has made a relevant representation. The appeal application must be made within 21 days of the written notification of the Sub Committees decision to the appellant.
- 10.4 The Legal Section considered this Report on 7 March 2023 (IKEN-11839-LDC-MW)

11 Risk management implications

- 11.1 There are no risks associated with the content of this report.

12 Equality analysis

- 12.1 An Equality Analysis is not constructive in this instance.

13 Environmental sustainability implications

- 13.1 There are no sustainability and/or carbon reduction implications associated with this report.

14 Appendices

- 14.1
- Appendix 1 - Application for a new premises licence under the Licensing Act 2003
 - Appendix 2- Application Plan submitted for Premises Licence Application.
 - Appendix 3- Police agreed conditions
 - Appendix 4- Individual representations made by members of the public
 - Appendix 5- Representation signed by 20 members of the public

15 Background papers

15.1 The background papers used in compiling this report were as follows:

- Revised Guidance issued under section 182 of the Licensing Act 2003, dated December 2022
- Lewes District Council Licensing Statement 2022-2027
- Human Rights Act 1998
- Equality Act 2010
- Crime and Disorder Act 1998