

This report will be made public on 16/06/2023



Report Number **DCL/23/07**

To: Licensing Sub-Committee
Date: 26 June 2023
Status: Non-Executive Decision
Responsible officer: Ewan Green - Director of Place

SUBJECT: An application to Vary the Premises Licence in respect of: The Portland Hotel & Skuba Bar, 2-4 Langhorne Gardens, Folkestone, Kent, CT20 2EA

SUMMARY: This report outlines the application made by The Portland Hotel & Skuba Bar to Vary the existing Premises Licence for this premises. The Licensing Sub-Committee must determine the outcome for the application.

REASONS FOR DETERMINATION:

The Committee is asked to consider the application to Vary the Premises Licence. When considering the application the Committee must ensure they fully promote the licensing objectives. The Committee is obliged to have regard to the revised national section 182 guidance and the council's own licensing policy.

DETERMINATION:

The Licensing Sub-Committee is asked to:

1. Note the contents of Report
2. Determine the application. The options for determining the application are set out in section 4.

1. BACKGROUND

1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premises and other licensable activities must be authorised by a premises licence.

A premises licence holder must comply with the four licensing objectives:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

1.2 The Portland Hotel & Skuba Bar has held a licence with Folkestone & Hythe District Council since the Licensing Act 2003 came into effect in 2005.

1.3 The licence granted was for:

- **Supply of Alcohol on & off sales** – Sunday-Thursday 10:00 – 00:00
Friday-Saturday 10:00 – 01:00
- **Live music** –Tuesday - Saturday 11:00 – 23:00 Sunday 11:00 – 22:30
- **Recorded music** – Sunday-Thursday 10:00 – 00:00 Friday-Saturday 10:00 – 01:00
- **Opening hours** – Sunday-Thursday 10:00 – 00:30 Friday-Saturday 10:00 – 01:30

1.4 The current Premises Licence can be seen at Appendix 1.

1.5 The current owner, Kimberley Huxley, took over the premises in July 2018. The current licence covers the interior of the premises but not the garden area.

2. APPLICATION

1.1. On the 19th April 2023, Kimberley Huxley submitted an application to vary the premises licence. This variation was to allow them to play live music in the garden area on Sundays only, from 16:00 – 21:00. The variation also updates the Operating Schedule in line with recommendations from Kent Police.

1.2. The application to vary the premises licence can be seen at Appendix 2.

1. RELEVANT REPRESENTATIONS

- 1.1. This Hearing has been required by the Licensing Act 2003 because valid representations were received from members of the public.

Responsible Authority	Comments
Home Office - Immigration	None
Kent Police	None
Environmental Health (Pollution)	None
Environmental Health (Commercial)	None
Kent Fire and Rescue	None
Planning	None
Child Protection Agency	None

Kent Police have not objected but have requested a more detailed Operating Schedule be applied and the applicant has agreed to add these to the application. These can be seen at Appendix 3.

The representations can be found at Appendix 4.

2. OPTIONS

- 2.1. The Licensing Sub-Committee has the following options:

- a) Grant the application to vary the licence
- b) Grant the application with amendments
- c) Add conditions to the licence that are relevant to the variation
- d) Reject whole or part of the application

- 1.1. The Committee is asked to note that it may not add conditions or amend the licence merely because it considers it desirable to do so. The Committee must only consider evidence that relates to the 4 Licensing Objectives. Any conditions added must promote the Licensing Objectives.

1. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Briony Williamson, Licensing Specialist
Telephone: 01303 853475
Email: briony.williamson@folkestone-hythe.gov.uk

Background documents:

Current Licensing Policy is available under the Policies section of the website:

<https://www.folkestone-hythe.gov.uk/your-council/policies-plans-and-documents/policy-documents>

The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available at:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Committee members are advised to read the new guidance thoroughly. Your attention is drawn to paragraphs 9.42, 9.43 and 9.44 in respect of the determination of the application. Additionally members are advised to refer to section 10 about imposing conditions. It is also good practice that if they propose to apply conditions they should be discussed with the applicant prior to the determination to ensure that they are proportionate.

2. APPENDICES

- Appendix 1. Current licence
- Appendix 2. Application to vary a premises licence
- Appendix 3. New operating schedule
- Appendix 4. Representations