

**SHEPWAY DISTRICT COUNCIL**

**LICENSING ACT 2003  
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION – 13/001  
Saras Express, 22 Jefferstone Lane, St Mary's Bay, Romney Marsh**

**Date of Hearing:** 28 October 2013

**Date of Determination:** 28 October 2013

**Sub-Committee Members:** Councillor Emily Arnold  
Councillor Alan Ewart-James  
Councillor Michael Lyons

**Officers in attendance:** Rick Guild, (Licensing Manager); Samantha Clarke (Litigation Locum), Shirlee Chatterton, (Democratic Services officer – Member Services)

This was to consider the application for a premises licence in respect of the Saras Express, 22 Jefferstone Lane, St Mary's Bay, Romney Marsh

The Sub-Committee heard oral evidence from the following witnesses:

Mr Muthiah Ginanendran, applicant  
Mr Mackenzie Dillon, applicant's solicitor

**Reason for Hearing:**

Representations had been received against the application as follows:

Letters/emails of objection from seven interested parties had been received mainly concerning crime and disorder, public nuisance and disruption to the local residents in the area late into the night.

A petition had been received containing 508 names mainly concerning crime and disorder, public nuisance, disruption to the local residents in the area late into the night and protecting children from harm.

No representations had been received from any of the responsible authorities.

**Decision:**

Application granted as applied for and subsequently amended in the hearing namely:

Hours open to the public:  
Monday to Sunday between the hours of 07:00 to 23.00

Hours for the supply of alcohol:  
Monday to Sunday between the hours of 08:00 to 23:00

That the following conditions in the operating schedule be removed/amended:

Removed:

*"The applicants do not and will not allow members of the public who have purchased alcohol from the premises to consume alcohol in the vicinity of the premises"*

Amended to:

*"The applicants will not allow members of the public who have purchased alcohol from the premises to consume alcohol in the vicinity of the premises and will monitor CCTV accordingly"*

That the following conditions be added to the licence:

- Supply two standard sized street litter bins placed outside the premises within the curtilage of the premises and fixed to the ground. Bin to be emptied each day at the start of the opening hours";
- A4 sized signage detailing the following:

"Please note that this is a residential area. Please act with due care and consideration for our residents"

One sign to be placed near the till point visible to those standing in the queue to pay.

One sign to be placed on both sides of the door, enabling it to be read going into the premises and coming out of the premises.

**Reason:**

## **1. Prevention of Crime and Disorder**

The Sub-Committee had regard to the representations made regarding this objective and the concerns expressed by the residents.

Whilst the Sub-Committee felt sympathy towards the residents and their concerns, it was noted that all references to crime and disorder were in respect to past events before both this applicant and premise were there or were purely speculative in respect to what it was thought would/could happen.

The Sub-Committee were of the opinion that the measures in place as identified in the operating schedule would suitably alleviate any concerns in respect of this objective, namely the comprehensive use of CCTV both inside and outside which they thought 'proved his worth' as a suitable applicant.

It was noted that the police had not submitted a representation.

Further, it was noted that these premises had been operating under Temporary Event Notices without complaint in this regard.

## **2. Public Safety**

No representations had been made regarding this licensing objective.

However, the Sub-Committee noted that there appeared to be suitable fire safety equipment and that the company that the applicant had engaged to check the equipment was conveniently local to the business, identified as 'just round the corner'.

## **3. The Prevention of Public Nuisance**

The Sub-Committee had regard to the representations made regarding this objective and the concerns expressed by the residents especially noise and general anti-social behaviour from the premises' patrons.

Members took very seriously the fact that no objections had been received from Shepway District Council's Environmental Department.

Whilst the Sub-Committee felt sympathy towards the residents it was noted that all references to Public Nuisance were in respect to past events before both this applicant and premise were there or were purely speculative in respect to what it was thought would/could happen.

The Sub-Committee were of the opinion that the measures in place as identified in the operating schedule would suitably alleviate many concerns in respect of this objective, namely the condition explained and amended as follows:

"The applicants will not allow members of the public who have purchased alcohol from the premises to consume alcohol in the vicinity of the premises and will monitor CCTV accordingly."

Further, at the meeting the Sub-Committee were reassured by the applicants' solicitor that there had been no complaints in this regard further to the numerous Temporary Events Notices that had taken place.

Also, the Sub-Committee were mindful of the amendment made to the application in respect of the hours sought in respect of 'Supply of alcohol'. The applicant had as a gesture of goodwill, reduced the hours from '07.00 – 23.00' to '08.00 – 23.00'.

The Sub-Committee were also mindful of the statement that the applicant was a member of 'Best One' and this coupled with his experience did 'prove his worth' to be a suitable applicant to hold a Premise Licence.

However, it was felt that it could be made clearer to all patrons that it was a predominantly residential area and that one should be mindful of that in

their conduct. As such, it was thought to be appropriate to have signage reflecting this and that this must be a condition of the license.

Further, in respect of the concerns expressed in relation to the public nuisance of litter and rubbish being left about the vicinity it was felt that the operating schedule did not adequately deal with this concern. Therefore, it was deemed appropriate that a condition was placed on the licence requiring bins outside the premises and that these are empty on a daily basis.

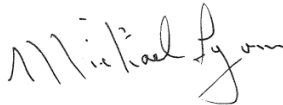
#### **4. Prevention of Harm to Children**

The Sub-Committee had regard to the representations made regarding this objective and the concerns expressed by the residents.

The Sub-Committee considered that the actions specified in the operating schedule, namely the Challenge 25 policy and the refusals book, adequately promoted this objective.

One interested party expressed concern in respect of noise levels preventing children's sleep, it was noted that this was a general public nuisance and deliberations in this regard were encompassed under "The Prevention of Public Nuisance" objective as it was not specific to children.

Signed (Chairman):



Councillor Michael Lyons  
Date: 29 October 2013

You have the right to appeal against the decision of the Sub-Committee. Any appeal must be made to Canterbury Magistrates Court, Pencester Road, Dover, Kent CT16 1BS within 21 days of the date you were notified of the decision.

#### **Additional Notes:**

- This licence, like any other licence, is subject to review at the instigation of any Responsible Authority or Interested Person should there be any concerns regarding the operation of, and/or, breaches of the licence.
- Other Persons and Responsible Authorities are reminded that they may apply for a review of this licence "after a reasonable interval" pursuant to section 51 of the Licensing Act 2003.

- Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the 2003 Act.
- In the case of a Premises Licence, an appeal has to be commenced by the giving of a notice of appeal by the appellant to the justices' chief executive for the magistrates' court within a period of 21 days beginning on the day on which the appellant was notified by the licensing authority of the decision to be appealed against.