

<b>Name of Committee:</b>	Licensing Sub-Committee		
<b>Committee Date:</b>	06 March 2024		
<b>Report Title:</b>	Application for a Premises Licence: Isla Bay, 6 Rails Lane, Hayling Island		
<b>Responsible Officer:</b>	Alex Robinson, Executive Head of Place		
<b>Cabinet Lead:</b>	Cllr Elizabeth Lloyd		
<b>Status:</b>	Non-Exempt		
<b>Urgent Decision:</b>	No	<b>Key Decision:</b>	No
<b>Appendices:</b>	Appendix A: Application by Mr Emrah Tashan. Appendix B: Consultation table with Responsible Authority responses. Appendix C: Representations from 'Other Persons'. Appendix D: Offered conditions in addition to the operating schedule.		
<b>Background Papers:</b>	Please see section 3.2.		
<b>Officer Contact:</b>	Name: Hilary Smith Email: hilary.smith@havant.gov.uk		
<b>Report Number:</b>	HBC/092/2024		

### Corporate Priorities:

This report is specific to the application under consideration.

Members should note that the Sub-Committee is meeting on this occasion solely to perform the role of Licensing Authority. As such Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the Council's related policies and guidance.

### Executive Summary:

This report is for the Licensing Sub-Committee to determine the application made by Mr Emrah Tashan for a premises licence at Isla Bay, 6 Rails Lane, Hayling Island PO11 9LL.

### Recommendations:

In making its determination, the Licensing Sub-Committee must, having regard to the application and relevant representations, take such steps as it considers appropriate for the promotion of the licensing objectives. The steps the Authority can take are:

(a) to grant the licence subject to—

- (i) the conditions mentioned in subsection (2)(a) [as are consistent with the operating schedule accompanying the application] modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and
  - (ii) any condition which must under section 19, 20 or 21 [mandatory conditions] be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application.

## 1.0 Introduction

- 1.1 Havant Borough Council received an application, under section 17 of the Licensing Act 2003, on from Mr Emrah Tashan for a premises licence at Isla Bay, 6 Rails Lane, Hayling Island PO11 9LL.

## 2.0 Background

- 2.1 The premises has been a café registered with Environmental Health since September 2023.

### Application

- 2.2 The application received on 17 January 2024 is to request the sale of alcohol for consumption on the premises, all week 10am – 11pm. Music had been applied for but withdrawn because background music is not licensable. The application can be found at Appendix A.

- 2.3 The application was subject to the statutory public consultation period of 28 days, ending on 14 February 2024. A statutory notice was displayed at the premises and on the Council's website for the duration of the consultation period and published in the Portsmouth News on 25 January 2024.

### Representations

- 2.4 No representations were received from any of the Responsible Authorities. Please see Responsible Authorities contact table at Appendix B.

- 2.5 Four representations were received from 'Other Persons' relating primarily to the 'prevention of public nuisance' licensing objective. These can be found at Appendix C.
- 2.6 Following receipt of representations, the applicant proposed further conditions in addition to the operating schedule. This can be found at Appendix D.

### Role

- 2.7 As an administrative body, the Sub-Committee is required to consider this matter on its merits and must act reasonably and rationally.
- 2.8 In considering the matter, the Sub-Committee should take into account any representations or objections that have been received from Responsible Authorities or other persons, and representations made by the licence holder.
- 2.9 The Sub-Committee may only consider matters referred to in representations relevant to the four licensing objectives. These must be considered in the context of what is relevant to the application.
- 2.10 In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's licensing policy statement.

## **3.0 Options**

- 3.1 In making its determination, the Licensing Sub-Committee must, having regard to the application and relevant representations, take such steps as it considers appropriate for the promotion of the licensing objectives. The steps the Authority can take are:
- (a) to grant the licence subject to—
    - (i) the conditions mentioned in subsection (2)(a) [as are consistent with the operating schedule accompanying the application] modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21

[mandatory conditions] be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application

3.2 The Licensing Sub-Committee must also have regard to:

- [Licensing Act 2003](#)
- [Guidance issued under section 182 of the Licensing Act 2003](#)
- [Havant Borough Council's Statement of Licensing Policy](#)
- [Human Rights Act 1998](#)
- [Crime and Disorder Act 1998](#)
- [Public Sector Equality Duty \(s.149 Equality Act 2010\)](#)

3.3 The Committee should note that it cannot modify the conditions, exclude a licensable activity, or reject the application merely because it considers it desirable to do so; it must be because it is appropriate for the promotion of the licensing objectives.

3.4 The Committee may only consider matters relating to the four licensing objectives.

## 4.0 Relationship to the Corporate Strategy

4.1 Consideration has not been given to how the decision sought will help the Council meet its corporate priorities as the nature of the application is outside the scope of these priorities.

## 5.0 Conclusion

- 5.1 The Licensing Sub-Committee must determine the outcome of the application, having regard to the matters set out in this report and the recommendations made for the steps that the Licensing Authority can take.

## 6.0 Implications and Comments

### 6.1 S151 Comments

Members can be content that given the nature and content of the report there are no financial implications that I need to consider in my capacity as Section 151 officer.

- Steven Pink

### 6.2 Financial Implications

A statutory fee of £190 has been received for this application.

### 6.3 Monitoring Officer Comments

The legal implications and role of the Sub-Committee are outlined within the body of the report. Constitutionally, the Licensing Sub-Committee's remit includes the determination of applications for premises licences where relevant representations have been made.

### 6.4 Legal Implications

Section 18 of the Licensing Act 2003 states that where relevant representations are made in respect of an application for a premises licence, the Authority must hold a hearing to consider them and take steps as it considers appropriate for the promotion of the licensing objectives. Section 18 (4) of the Licensing Act 2003 specifies the steps an Authority may consider.

Any decision made by the Licensing Sub-Committee in relation to this application may be appealed to the Magistrates Court within 21 days' notice of that decision.

### 6.5 Equality and Diversity

The Licensing Sub-Committee shall have regard to the Human Rights Act 1998 and section 149 of the Equality Act 2010, in making its determination.

6.6 Human Resources

None.

6.7 Information Governance

Notice of the application has been published on the Council's website as required by section 17(5)(aa) of the Licensing Act 2003. Details of the application and outcome shall be published on the Council's public register, as required by section 8 of the same Act.

6.8 Climate and Environment

None.

**7.0 Risks**

7.1 Any decision made by the Licensing Sub-Committee in relation to this application may be appealed to the Magistrates Court within 21 days' notice of that decision.

**8.0 Consultation**

8.1 The application was subject to the statutory public consultation period of 28 days, ending on 14 February 2024.

**9.0 Communications**

9.1 A statutory notice was displayed at the premises and on the Council's website for the duration of the consultation period and published in the Portsmouth News on 25 January 2024.

<b>Agreed and signed off by:</b>		<b>Date:</b>
<b>Cabinet Lead:</b>	Cllr Elizabeth Lloyd – <i>provided with a copy of final report for information only.</i>	26/02/2024

<b>Executive Head:</b>	Alex Robinson	13/02/2024
<b>Monitoring Officer:</b>	Jo McIntosh	21/02/2024
<b>Section151 Officer:</b>	Steven Pink	15/02/2024