

APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE - LICENSING ACT 2003

Committee: Licensing (Statutory) Sub-Committee

Date: Monday 18 July 2022

Author: Stewart Broome – Senior Licensing Officer

[X41]

1.0 PURPOSE/SUMMARY OF REPORT

1.1 To consider and determine an application for the grant of a premises licence in respect of Brook House, 49 Brook Street, Soham, Ely, Cambs, CB7 5AD.

2.0 RECOMMENDATION(S)

2.1 That Members consider the content of this report and all of the evidence provided during the hearing, and determine the application in accordance with the options contained in paragraph 4.4 of this report.

3.0 BACKGROUND/OPTIONS

Detail of Application

3.1 On 6th April 2022, **Mrs Winifred Day and Mrs Mary Radford** applied for a Premises Licence under section 17 of the Licensing Act 2003 for Brook House, 49 Brook Street, Soham, Ely, Cambs, CB7 5AD. The application was served on the responsible authorities, but unfortunately due to an issue with the newspaper advert, it was not initially advertised in accordance with the regulations of the Licensing Act 2003. This was resolved; however, the resolution caused a delay in the consultation end date. The full application can be found in **Appendix 1**.

3.2 In their application, the applicant states that they seek to licence the premises to provide breakfast, lunch and dinner, and to host social events such as wedding receptions.

Activities and times applied for

3.3 The following table sets out the requested activities and timings.

Table 1

Licensable Activity	Proposed Hours
Sale by Retail of Alcohol for consumption on the premises	Monday to Sunday 12:00 to 00:00

Late Night Refreshment (indoors)	Monday to Sunday 23:00 to 00:00
Live Music (Indoors and Outdoors) Recorded Music (Indoors and Outdoors) Plays (Indoors) Indoor Sporting Events Films (Indoors) Performance of Dance (Indoors) Anything similar to Live Music, Recorded Music and Performance of Dance (Indoors)	Monday to Sunday 12:00 to 00:00
Opening Hours	Monday to Sunday 07:30 to 00:30

3.4 The plans submitted with the application can be found at **Appendix 2**.

Licensing Objectives addressed by the Applicant

3.5 The applicant has offered the following measures in relation to the four licensing objectives:

1. A video/CCTV system displaying the correct time and date of the recording shall be in operation with sufficient cameras to monitor all internal and external areas where licensable activities take place and be capable of producing immediate copies on site either recorded digitally on to CD/DVD or other equivalent medium. A person competent in producing visual recordings to the police or an authorised officer on demand to be present on the premises at all times.
2. All recording to be retained and stored in a suitable and secure manner for a minimum of 28 days and be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
3. CCTV monitoring and recording equipment (including any mobile units in use at the premises) to be maintained at all times in a working condition.
4. Written risk assessments to be undertaken to ensure that at all times when licensable activities are being carried out, and with particular consideration given to specific known high-risk dates or planned events, consideration is given to whether it is necessary for SIA door supervisors to be used/employed to:
 - o prevent the admission and ensure the departure from the premises of drunk and disorderly persons, without causing further disorder

- o keep out banned or excluded persons out
 - o search and exclude persons suspected to of carrying illegal drugs or offensive weapons
 - o maintain order on the premises
 - o ensure patrons disperse the premises in an orderly manner
5. An incident log shall be kept at the premises and made available on request to an authorised officer or the Police. It must be completed within 24 hours of the incident and will record the following:
- o all crimes reported to the venue
 - o all ejections of patrons
 - o any complaints received concerning crime and disorder
 - o any incidents of disorder
 - o all seizures of drugs or offensive weapons
 - o any faults in the CCTV system, searching equipment or scanning equipment
 - o any refusal of the sale of alcohol
 - o any visit by a relevant authority or emergency service.
6. The licence holder will ensure that prior to commencing customer facing duties all staff will undertake in-house training in relation to their responsibilities in the sale of alcohol, in particular with regard to drunkenness and underage persons and to the use of Challenge 25 scheme correctly and effectively and display notices on the premises. Records will be kept of such training and will be immediately available for inspection by the Police or any other authorised officer on request, and will include:
- o induction training which must be completed and documented prior to the sale of alcohol by the staff member.
 - o refresher/reinforcement training at intervals of no more than 6 months.
7. The designated premises supervisor shall authorise in writing the names of the staff members suitably trained to be responsible for the sale of alcohol at the premises in his/her absence.
8. A zero tolerance drug policy to be implemented at the premises and appropriate drug awareness staff training shall take place with training records maintained and made available on request to the Police or an Authorised Officer.
9. The number of external events where any form of amplified music is played to be limited to a maximum of 2 per year.
10. A contact telephone number to be advertised at least 1 week before an external event either at the venue and/or on the website, where concerns and/or suggestions can be raised either before, during or after the

proposed event. A written record of such calls and actions taken to be maintained.

11. External amplified music to cease at 22:00 hours. For clarification 'external' refers to anywhere outside of the main brick building delineated on the premises plan.
12. No external speakers to be permitted in the garden or car park areas apart from the designated external amplified music events.
13. Noise or vibration from licensable activities must not emanate from the premises so as to cause a nuisance at nearby properties.
14. Aural monitoring checks of noise levels to take place outside the premises at least once during an event involving regulated entertainment and appropriate measures to be taken to ensure compliance with condition 13 above. If an event continues after midnight then additional aural checks will be made from the surrounding area to check for compliance with the inaudibility condition 15 and 16 when assessed from the external boundaries of nearby residential properties. A written record of these monitoring inspections to be maintained to include the name of the person who conducted the monitoring, the date and time of the monitoring and the outcome of the monitoring.
15. Internal live or amplified recorded music as part of an internal event to cease at 00:00 hours. Music played after this time to be limited to background recorded music only on any night and this background music shall not be audible outside the building when assessed from the external boundaries of nearby residential properties, when the buildings windows and doors are closed. For clarification 'internal' refers to anywhere inside the main brick building delineated on the premises plan and shall not include any temporary buildings such as marquees.
16. Commentary or music from TV's or other screens shall not be audible outside the building after 23:00 hours on any night when the buildings windows and doors are closed. For clarification 'internal' refers to anywhere inside the main brick building delineated on the premises plan and shall not include any temporary buildings such as marquees.
17. Except for ingress to and egress from the premises, all doors and windows to remain closed during events involving regulated entertainment.
18. The placing of refuse and empty bottles into outside receptacles shall not take place during the night-time hours between 21:00 and 07:00 to minimise disturbance to nearby properties.
19. Lighting levels in the garden to be controlled so no overspill into neighbouring gardens or glare may occur.

20. Prominent, clear and legible notices to be prominently displayed at all premises exits to request patrons to respect the needs of the local community and of acceptable behavior in public spaces and to leave the premises and surrounding area quietly.
21. Clear and legible notices to be prominently displayed in the designated smoking area to request patrons to respect the needs of local residents and to act in a quiet and responsible manner when using the smoking area.
22. When entertainment of an adult nature is taking place on the premises, no person under 18 years of age to be allowed entry to that part of the premises where the adult entertainment is taking place.
23. The premises licence holder shall ensure that an age verification policy will apply to the premises whereby all bar staff will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
24. An incident book to record the refusal of alcohol sales and/or ejections from the premises to be maintained on the premises and this book to be made available on request to the police or an authorised officer.
25. Clear and legible signage to be displayed in the bar area and where gaming machines are sited to remind customers that they must be over 18 years of age to purchase alcoholic drink or play on the gaming machines.
26. The designated premises supervisor to require all staff members to regularly monitor the gaming machines to ensure the protection of under-age and vulnerable persons that may be using them. A written record of these monitoring inspections to be maintained to include the name of the person who conducted the monitoring, the date and time of the

Consultation/Representations

- 3.7 During the 28-day consultation process required by the Licensing Act 2003, the Licensing Authority received one valid representation from an "Other Person". This can be seen in full in **Appendix 3**.

3.7.1 A summary of the points raised are shown in the table below:

Table 2

Noise levels
Alcohol sales up to midnight
Public nuisance from those who have consumed alcohol

3.7.2 At the time of writing the report no agreement between any of the parties has been made.

4.0 CONCLUSIONS/DETERMINATION OF APPLICATION

4.1 Members are obliged to determine this application with a view to promoting the licensing objectives which are:

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

In making their decision Members are also obliged to have regard to the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. Should Members depart from either they must specify their reasons for doing so. Members must also take into account the information contained within this report, and the evidence submitted, both written (if submission of such information is agreed by all parties at the hearing) and orally during the hearing.

4.2 Relevant Statutory Guidance considerations (**Appendix 4**):

The Licensing Objectives	Section 2 pages 6 to 12
Applications for Premises Licences	Section 8 pages 49 to 62
Determining applications	Section 9 pages 68 to 76
Conditions attached to Premises Licences	Section 10 page 77 to 88
Deregulation of certain entertainment	Section 16 page 123 to 140

4.3 Relevant Local Policy considerations (**Appendix 5**):

Representations	Section 1.51 to 1.55
Conditions	Section 1.56 to 1.64
Licensing Objectives	Section 3
Prevention of Crime and Disorder	Section 4
Public Safety	Section 5
Prevention of Public Nuisance	Section 6
Protection of Children from Harm	Section 7

4.4 Members can determine the premises licence application as follows:

- a) to grant the premises licence subject to:
 - (i) the conditions that are consistent with the operating schedule accompanying the application modified to such extent as Members consider appropriate for the promotion of the licensing objectives; and
 - (ii) any mandatory conditions that must 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; or
- (d) to reject the application.

4.5 Members are asked to note that they may not modify or impose new conditions, or reject the whole or part of the application merely because they consider it desirable to do so. It must actually be **appropriate** to do so in order to promote the licensing objectives, and any such step must relate to the actual representations made. Conditions attached must be focused on matters which are within the control of applicant, i.e. the premises and its vicinity.

Regulation 19(a) requires authorities to disregard any information given by a party or person that is “not relevant” to their application or representation, and is not relevant to the licensing objectives.

4.6 In determining the premises licence application, Members must provide the reasons for their decisions, and consider their responsibilities under the Human Rights Act 1998, when balancing the rights of the applicant and the rights on those who may be affected.

4.7 Any decision taken must be **appropriate and proportionate** to the objective being pursued. In particular the following should be taken into consideration:

Article 6 – the right to a fair hearing

Article 8 – respect for private and family life

Article 1, First protocol – peaceful enjoyment of possessions (which can include the possession of a licence)

Article 14 – the right to freedom from discrimination.

Point of Note – Premises history

4.8 Mrs Winifred Day previously held a premises licence for Brook House that was granted in 2005, and subsequently transferred to a new holder in May 2010, see **Appendix 6**). This licence was ultimately surrendered in 2018. Licensing

Authority records show two complaints relating to noise and anti-social behaviour following events held at Brook House were received and dealt with in 2009, but no other issues are recorded prior to, or in the two years after whilst Mrs Day remained the licence holder.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 5.1 The cost of convening a Licensing (Statutory) Sub-Committee to determine an application is covered by the fees paid by licence applicants.
- 5.2 Should there be a decision to modify the premises operating schedule, exclude a licensable activity from the scope of the licence, refusal to specify a person as the designated premises supervisor or reject the application, the applicant can appeal to the Magistrates' Court. There will be costs associated with this process. The right of appeal is 21 days from the date of notification of the decision.
- 5.3 Any party who made relevant representations in relation to the application may appeal the decision. There will be costs associated with this process. The right of appeal is 21 days from the date of notification of the decision.
- 5.4 Equality Impact Assessment (EIA) is not required, as this does not relate to a service provided by the Council or a decision on a change of policy, but an application for a licence by an individual/ organisation.

7.0 APPENDICES

- 7.1 Appendix 1 – Application Form
Appendix 2 – Plans
Appendix 3 – Objections – Other Persons
Appendix 4 – S182 Statutory Guidance extracts
Appendix 5 – Local Policy extracts
Appendix 6 – Previous licence surrendered in 2018.

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Licensing Act 2003	Room SF208	Stewart Broome Senior Licensing Officer (01353) 616287 E-mail: stewart.broome@eastcambs.gov.uk
The Licensing Act 2003 (Hearings) Regulations 2005		