

Representation following the Application for a New Premises Licence at 27 Holyrood Street, Chard TA20 2DN

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Purpose of the Report

To inform members that an application has been received from Mr Arsenio Estevao, for a premises licence to be granted under the Licensing Act 2003 at 27 Holyrood Street, Chard TA20 2DN.

Recommendation

To determine the granting of the premises licence in accordance with the options detailed later in the report.

Background

The Council is the authority responsible for the issue of Premises Licences issued under Section 18 of the Licensing Act 2003.

The Licensing Manager has delegated authority to determine a Premises Licence application, subject to no objections being received from a Responsible Authority or Other Persons. In this case, a relevant representation has been received from an 'Other Person', necessitating the convening of a hearing.

Licensing Objectives

The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The licensing objectives are to be considered paramount and the Council has a duty to promote them in its decision making process. An application will not be refused in whole or part or any conditions attached except those offered by the applicant or required by law except where appropriate to promote the licensing objectives.

Application

A copy of the application form is enclosed with the agenda.

The details of the application are summarised as follows:

Applicant: Mr Arsenio Estevao

Licensable activities applied for: The Supply of Alcohol – On the premises only

Day	Start Time	Finish Time
Monday	08:30	21:30
Tuesday	08:30	21:30
Wednesday	08:30	21:30
Thursday	08:30	21:30
Friday	08:30	21:30
Saturday	08:30	21:30
Sunday	08:30	21:30

Non-Standard Timings:

New Year's Eve – Start 08:30 Finish 02:00 New Year's Day

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children. **(K)**

None

Hours premises open to the public (L)

Day	Start Time	Finish Time
Monday	08:30	22:00
Tuesday	08:30	22:00
Wednesday	08:30	22:00
Thursday	08:30	22:00
Friday	08:30	22:00
Saturday	08:30	22:00
Sunday	08:30	22:00

Non-Standard Timings:

New Year's Eve – Start 08:30 Finish 02:30 New Year's Day

Additional steps put forward by the applicant to comply with licensing objectives. Please see page (page 16B) of the application form (these where appropriate, will become conditions of the licence, subject to the licence being granted, and are in addition to any further conditions imposed by the Licensing Committee).

Evidence that advertising/notice requirements have been complied with:

- The applicant has confirmed that notice(s) were displayed at premises for the requisite period. A further notice was placed in the Chard & Ilminster Newspaper for which we are currently waiting for a copy.

Representation – Responsible Authorities

None

Representations – Other Persons

One letter of representation was received which concerned the potential issue of noise.

Relevant Observations

The premises was previously subject to a premises licence, but it lapsed when the previous holder dissolved the company – it permitted the following:

Licensable activities: The Supply of Alcohol – On and Off the premises

Day	Start Time	Finish Time
Monday	08:30	22:00
Tuesday	08:30	22:00
Wednesday	08:30	22:00
Thursday	08:30	22:00
Friday	08:30	22:00
Saturday	08:30	22:00
Sunday	08:30	22:00

Hours premises open to the public

Day	Start Time	Finish Time
Monday	08:30	22:30
Tuesday	08:30	22:30
Wednesday	08:30	22:30
Thursday	08:30	22:30
Friday	08:30	22:30
Saturday	08:30	22:30
Sunday	08:30	22:30

Further Information

Each application must be determined on its own merits as businesses all have different requirements and therefore the operating schedules can also be very different.

Determination

In determining the application with a view to promoting the licensing objectives in the overall interests of the community, the Committee must have regard to and give appropriate weight to the following considerations:

- Any relevant and valid representation (including supporting documentation received)
- The Latest Guidance issued under s182 of the Act
- The Statement of Licensing Policy issued in January 2014.
- The steps appropriate to promote the licensing objectives as set out in s18(4)
- Human Rights considerations in particular Article 6, Article 8 and Article 1 of Protocol 1

Options

The options available to the committee are stated at section 18 of the Licensing Act 2003 are as follows:

- Grant the licence subject to such conditions which are consistent with the operating schedule modified to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives and any condition, which must under s19-21, be included in the licence s18(4)(a)(i)(ii) together with the current mandatory conditions.
- Exclude from the scope of the licence any of the licensable activities to which the application relates s18(4)(b)
- Refuse to specify a person in the licence as the premises supervisor s18(4)(c) (not applicable in this case as the sale of alcohol has not been requested)
- Reject the application s18(4)(d).

Right of Appeal

Schedule 5 of the Licensing Act 2003 sets out the rights and procedures for making appeals against the decision of the Licensing Authority:

Where the Licensing Authority has rejected an application for a premises licence, the applicant may appeal to the Magistrates' Court against the decision to reject.

Where the Licensing Authority has granted the licence, the holder of the licence may appeal to the Magistrates Court against any decision to impose conditions on the licence that are consistent with the operating schedule or imposed where having regard to any relevant representations, are considered appropriate to promote the licensing objectives.

Where the Licensing Authority has granted the licence subject to the exclusion of any of the licensable activities or refused to specify a person as the premises supervisor, the holder of the licence may appeal to the Magistrates Court against the decision.

Where a person who made a relevant representation desires to contend that the licence ought not to have been granted, or that on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or ought to have taken a step to exclude a licensable activity or refused to have specified a person as the premises supervisor, he may appeal against the decision to the Magistrates Court.

The appellant commences the appeal by giving a notice of appeal to the designated officer for the Magistrates' court within 21 days beginning with the day on which the applicant was notified by the Licensing Authority of the decision appealed against.

On determining the appeal, the court may,

- Dismiss the appeal
- Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

and may make such order as to costs as it thinks fit.

Background Papers

Licensing Act 2003

SI 2005 No. 44 Licensing Act 2003 (Hearings) (Regulations) 2005

SI 2005 No. 42 Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

SI 2010 No.860 Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

The Latest Guidance issued under section 182 of the Licensing Act 2003.

The Statement of Licensing Policy for South Somerset District Council January 2014.
