

# **Representation following the Application for a New Premises Licence at The Terrace Lodge Hotel, South Western Terrace, Yeovil, BA20 1NB**

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## **Purpose of the Report**

To inform members that an application has been received from S G Enterprise Ltd for a premises licence to be granted under the Licensing Act 2003 at The Terrace Lodge Hotel, South Western Terrace, Yeovil, BA20 1NB.

## **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this case, relevant representations were received from two Responsible Authorities (one of which has been subsequently withdrawn): as there is one representation still outstanding it is necessary to convene a hearing to determine the application.

## **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: S G Enterprise Ltd

Licensable activity applied for:

**Supply of Alcohol (J) – Consumption On and Off The Premises**

Day	Start Time	Finish Time
Monday	Midnight	23:59
Tuesday	Midnight	23:59
Wednesday	Midnight	23:59
Thursday	Midnight	23:59
Friday	Midnight	23:59
Saturday	Midnight	23:59
Sunday	Midnight	23:59

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)**

Not applicable.

**Hours premises open to the public (L) – Not a licensable activity, but shown as part of the application.**

Day	Start Time	Finish Time
Monday	Midnight	23:59
Tuesday	Midnight	23:59
Wednesday	Midnight	23:59
Thursday	Midnight	23:59
Friday	Midnight	23:59
Saturday	Midnight	23:59
Sunday	Midnight	23:59

Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (pages 16 - 21) of the application 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.

There is an error on the application form; on page 1 of the application the type of applicant should be (b) i) (as a limited company) instead of (b) ii) (as a partnership).

Evidence that advertising/notice requirements have been complied with:

- The applicant has confirmed that notice(s) were displayed at the premises for the requisite period; the Licensing Enforcement Officer visited the premises on 3 January 2018 and confirmed that the notice was on display. A further notice was placed in the Western Daily Press newspaper on 24 January of which we have a copy.

**Representation – Responsible Authorities**

A representation was received from Mrs King on behalf of the Chief of Police for Avon & Somerset.

**Representations – Other Persons**

None.

## Relevant Observations

Communication has taken place between the applicant and the Police, but it has not resulted in an amendment of the operating schedule which would satisfy both parties.

## Further Information

The premises are situated in an area where the cumulative impact policy applies. The Council's Licensing Policy states that there is a presumption that applications for new licences, variations or material variations, will normally be refused if relevant representations are received unless it can be demonstrated that the operator will not add to the cumulative impact already being experienced<sup>1</sup>.

When it was discovered that a notice had not been published in a local newspaper, the applicant was contacted and advised that the consultation period had to recommence with a new date last date for representations as they had not complied with the advertising requirements as set-out in secondary legislation pertaining to the Licensing Act 2003<sup>2</sup>.

Publishing a notice in a newspaper is one of the two requirements the applicant has to complete to advertise the application so that the general public are aware of the application and can make representations either for or against the granting of a premises licence; the other requirement is to display a notice in a prominent position so it is visible from the exterior of the premises.

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)
- Reject the application s18(4)(d).

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<sup>1</sup> Page 12, Paragraph 3.2.2 of the Council's Licensing Policy dated January 2014

<sup>2</sup> Licensing Act 2003 (premises licences and club premises certificates) Regulations 2005 No.42 Paragraph 25.

## **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.

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