

Representation following the Application for a New Premises Licence at Apple HQ, Shepton Montague, BA9 8JP

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Purpose of the Report

To inform members that an application has been received from Mr Oliver Dowding and Ms Jane O'Meara, for premises licence to be granted under the Licensing Act 2003 at Apple HQ, Shepton Montague, BA9 8JP.

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 Lead Specialist – Environmental Health 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 three “Other Persons” it is therefore 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; it does not however include a copy of the plan of the premises, which is available for inspection at the Council offices, Brympton Way, Yeovil.

The details of the application are summarised as follows:

- Applicant: Mr Oliver Hugh Arnold Dowding and Ms Jane O'Meara

Licensable activities applied for:

Supply of Alcohol (J) – Consumption ‘On and Off’ the Premises

Day	Start Time	Finish Time
Monday	08:00	19:00
Thursday	08:00	19:00
Friday	08:00	19:00
Saturday	08:00	19:00
Saturday	08:00	19:00
Sunday	08:00	19:00
Sunday	08:00	19:00

Seasonal Variations: None

Non-Standard Timings: None

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) – Not a licensable activity, but shown as part of the application.

Day	Start Time	Finish Time
Monday	08:00	19:00
Tuesday	08:00	19:00
Wednesday	08:00	19:00
Thursday	08:00	19:00
Friday	08:00	19:00
Saturday	08:00	19:00
Sunday	08:00	19:00

Non-Standard Timings:

None

Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (pages 17 - 18) 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 a notice was displayed at the premises for the requisite period. A further notice was placed in the Western Gazette newspaper on 7 May of which we have a copy.

Representations – Responsible Authorities

- None.

Representations – Other Persons

Three representations were received from ‘Other Parties’, which relate to concerns about public nuisance from cider tasting events.

The representations also refer to concerns to do with the planning permission which has been granted for the premises, however whilst the Licensing Act 2003 can be used to cover situations where provision is not made in the primary legislation, it may not duplicate other statutory provision. A premises licence application can still therefore be granted, which is at odds with the planning consent, but any enforcement action would need to be taken under planning legislation.

Advice was sought from our legal team in relation to the matters to do with an increase of traffic and the safety and the crossroads and they were not considered to be matters that can be taken into account as part of the premises licence application.

Relevant Observations

The applicant has provided additional information about the small samples of alcohol that would be available and has said that samples might be offered to customers and potential customers visiting the site. The applicant said that they may have open days and invitation only orchard tours and that Temporary Event Notices (TEN) would be submitted to authorise licensable activities during these events.

One of the representations alleges that noisy parties have been held at the site previously. The applicant responded by saying that they hosted an evening tour for farmers and held an open day in May 2019 and there was a TEN in place for this event and they refute the claim that these events caused a disruption to residents.

TENs can be used to authorise licensable activities such as sale of alcohol at premises for a period of time not exceeding 168 hours where no more than 499 people will be present at any one time. The time period and amount of people referred to, is the maximum and the notice giver will specify the premises, number of people and how long the event will last. A single premises can be used for 15 TENs in one year as long as the total number of days is not more than 21. The consultees for TENs are Police and Environmental Health. It is not possible to add conditions to a Temporary Event Notice unless there is already a premises licence in place AND a representation is received from one or both of the consultees AND the committee feel it is appropriate to apply relevant conditions from the premises licence to the TEN e.g. keeping doors and windows closed.

Further Information

One of the representations mentions lack of toilet facilities at the site and the applicant has stated that toilets will be installed at 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 and 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).

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.
