

Representation following the Application for a New Premises Licence at Forester's Arms, Holywell, East Coker, BA22 9NF

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Purpose of the Report

To inform members that an application has been received from Mr David Edward Wroe for premises licence to be granted under the Licensing Act 2003 at Foresters Arms, Holywell, East Coker, BA22 9NF.

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 four “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 David Edward Wroe

Licensable activities applied for:

Indoor Sporting Events (C)

Day	Start Time	Finish Time
Monday	11:00	23:00
Tuesday	11:00	23:00
Wednesday	11:00	23:00
Thursday	11:00	23:00
Friday	11:00	00:00
Saturday	11:00	00:00
Sunday	11:00	23:00

Further Details: Skittles, Darts, Pool and Charity Events

Seasonal Variations: None

Non-Standard Timings: The evening preceding all Bank Holidays and Public Holidays from 23.00 until 01.00 of the day of the Holiday. (Start 11.00 Finish 01.00 the following day). Provision during International sporting events e.g. football/rugby world cups/euros etc. and Olympics which are televised and shown on the premises. Start one hour before the broadcast to allow for events hosted in different time zones and continue throughout and end an hour after the broadcast has ended.

Live Music (E) Indoors and Outdoors

Day	Start Time	Finish Time
Monday	-	-
Tuesday	-	-
Wednesday	-	-
Thursday	-	-
Friday	23:00	00:00
Saturday	23:00	00:00
Sunday	-	-

Further Details:

Live performances outside to be limited to a maximum of 12 per year.
(Awaiting confirmation from the applicant if this means 12 in total, or 12 which go beyond 23:00)

Live music will be unamplified and amplified by bands and solo artists. Noise levels will be monitored and controlled to a reasonable level set by Management.

Non-Standard Timings:

The evening preceding all Bank Holidays and Public Holidays live music to continue inside from 23:00 or 00:00 as applicable until 01.00 on the day of the Holiday (Start 23:00 Finish 01.00).

Recorded Music (F) Indoors and Outdoors

Day	Start Time	Finish Time
Monday	-	-
Tuesday	-	-
Wednesday	-	-
Thursday	-	-
Friday	23:00	00:00
Saturday	23:00	00:00
Sunday	-	-

Further Details:

Amplified PA System. Noise levels will be monitored and controlled to a reasonable level set by Management.

Seasonal Variations: None.

Non-Standard Timings:

The evening preceding all Bank Holidays and Public Holidays music to continue inside until 01.00 on the day of the Holiday (Start 23:00 Finish 01:00)

Late Night Refreshment (I) Indoors

Day	Start Time	Finish Time
Monday	23:00	01:00
Tuesday	23:00	01:00
Wednesday	23:00	01:00
Thursday	23:00	01:00
Friday	23:00	01:00
Saturday	23:00	01:00
Sunday	23:00	00:00

Further Details: None

Seasonal Variations: None

Non-Standard Timings:

Provision of food during International sporting events e.g. football/rugby world cups/euros etc. and Olympics which are televised and shown on the premises. Start one hour before the broadcast to allow for events hosted in different time zones and continue throughout and end an hour after the broadcast has ended.

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

Day	Start Time	Finish Time
Monday	11.00	23.00
Tuesday	11.00	23.00
Wednesday	11.00	23.00
Thursday	11.00	23.00
Friday	11.00	01.00
Saturday	11.00	01.00
Sunday	11.00	23.00

Seasonal Variations: None

Non-Standard Timings:

The evening preceding all Bank Holidays and Public Holidays from 23.00 until 01.00 of the day of the Holiday (Start 11.00 Finish 01.00).

Provision during International sporting events e.g. football/rugby world cups/euros etc. and Olympics which are televised and shown on the premises. Start one hour before the broadcast to allow for events hosted in different time zones and continue throughout and end an hour after the broadcast has ended.

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)

Access to gaming machines will be prevented by anyone unable to prove they are 18 years old with a suitable "Proof of age Card" Refusals will be recorded in the Refusals register.

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

Day	Start Time	Finish Time
Monday	07:30	01:30
Tuesday	07:30	01:30
Wednesday	07:30	01:30
Thursday	07:30	01:30
Friday	07:30	01:30
Saturday	07:30	01:30
Sunday	07:30	00:30

Non-Standard Timings:

During International sporting events e.g. football/rugby world cups/euros etc. and Olympics which are televised and shown on the premises. Start one hour before the broadcast to allow for events hosted in different time zones and continue throughout and end an hour after the broadcast has ended.

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:

- A Locality Officer checked that the notice was on display at the premises on 17 June. The applicant has confirmed that the notice was on display throughout the consultation period. A further notice was placed in the Western Gazette newspaper on 18 June.

Representations – Responsible Authorities

- None.

Representations – Other Persons

Four representations were received from 'Other Persons]', which relate to concerns about the hours on the application, in particular that they may result in anti-social behaviour such as noise, litter and property damage. Two Other Persons mention that when the premises has previously been licensed they experienced noise nuisance from customers smoking close to their property.

Relevant Observations

The premises has previously been licensed, however, the premises licence holder of that licence surrendered the licence in 2019.

The applicant has applied for live and recorded music from 23:00 because if the licence is granted an exemption would apply for live and recorded music within the licensed area (the plan includes the outside areas as being part of the licensed premises, so the exemption would apply to outside areas too).

The applicant has stated that there will be a maximum of 12 occasions per year where live music will be played outside. This would apply to music performed after 23:00.

The applicant has not stated a maximum number of occasions where recorded music would be played in the outside areas.

It is not possible to apply conditions to live and recorded music performed between 08:00 and 23:00 because of the exemption in place.

The non-standard timings in relation to televised international sporting events ask for the supply of alcohol and the hours the premises are open to the public to end at the same time (one hour after the end of the event). No drinking up time has been included on these occasions.

A petition in support of the granting of the application was also received. The person who submitted the petition did not provide their name or address, and the full addresses of the people who signed the petition were not provided, so it was not possible to treat the petition as a relevant representation.

Further Information

Two other persons who made representations have stated that they do not object to the granting of the licence, but would like licensable activities to end at 2300 or 2330.

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.