

Representation following the Application for a New Premises Licence at Dairyhouse Farm, Bere, Aller, Langport, TA10 0QX

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Purpose of the Report

1. To inform members that an application has been received from Mrs Alison Lockyer and Mr Nick Lockyer for premises licence to be granted under the Licensing Act 2003 at Dairyhouse Farm, Bere, Aller, TA10 0QX.

Recommendation

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

Background

3. The Council is the authority responsible for the issue of Premises Licences issued under Section 18 of the Licensing Act 2003.
4. 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

5. The licensing objectives are:
 - Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
6. 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

7. A copy of the application form and plan is enclosed with the agenda.
8. The details of the application are summarised as follows:
 - Applicant: Alison Lockyer and Nick Lockyer

9. Licensable activities applied for:

Live Music (E) Indoors

Day	Start Time	Finish Time
Monday	11:00	01:00
Tuesday	11:00	01:00
Wednesday	11:00	01:00
Thursday	11:00	01:00
Friday	11:00	01:00
Saturday	11:00	01:00
Sunday	11:00	01:00

Further Details: Live bands (amplified)

Seasonal Variations: None

Non-Standard Timings: None

Recorded Music (F) Indoors

Day	Start Time	Finish Time
Monday	11:00	01:00
Tuesday	11:00	01:00
Wednesday	11:00	01:00
Thursday	11:00	01:00
Friday	11:00	01:00
Saturday	11:00	01:00
Sunday	11:00	01:00

Further Details: Disco

Seasonal Variations: None.

Non-Standard Timings: None.

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

Day	Start Time	Finish Time
Monday	11.00	00:00
Tuesday	11.00	00:00
Wednesday	11.00	00:00
Thursday	11.00	00:00
Friday	11.00	00:00
Saturday	11.00	00:00
Sunday	11.00	00:00

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	09:00	01:00
Tuesday	09:00	01:00
Wednesday	09:00	01:00
Thursday	09:00	01:00
Friday	09:00	01:00
Saturday	09:00	01:00
Sunday	09:00	01:00

Seasonal Variations: None.

Non-Standard Timings: None.

10. Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (page 9) 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:

11. A Locality Officer checked that the notice was on display at the premises on 07 July. Awaiting confirmation that the notice was displayed at the premises throughout the consultation period and the notice was published in a newspaper at the time of writing the report.

Representations – Responsible Authorities

12. A representation was received from Environmental Health. The representation included conditions which would remedy the representation. The applicant has agreed to amend their application to include the conditions and the representation has been withdrawn.

- A noise management plan must be implemented to prevent public nuisance. Failure to prevent such nuisance may result in enforcement under The Environmental Protection Act 1990.
- All doors and windows of the main venue to remain closed when recorded or live music being played.
- No recorded or amplified music to be played outside the main venue.
- Doors to smoking area to be kept closed when not in use for entrance/exit.

Representations – Other Persons

13. Three representations were received from 'Other Persons', which relate to concerns about the noise from the premises, 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

14. The plan accompanying the application shows the area that will be licensed if the premises licence is granted; on the plan this area is outlined in green.
15. If the licence is granted, the premises (area outlined in green) will benefit from the exemption which allows live and recorded music to be performed in premises licensed for the supply of alcohol for consumption on the premises between 08:00 and 23:00 to an audience of no more than 500 people. Conditions which relate to live and recorded music when the exemption applies are not enforceable.
16. The applicant has previously applied for Temporary Event Notices (TENs) to licence events at the premises.

Further Information

17. Negotiation has taken place, but at the time of writing the report the representations have not been withdrawn.
18. One of the people who made representations asked for clarification of the meaning of high in the Noise Management Plan (NMP) provided by the applicant "Boundaries are checked regularly with a decibel monitor and action will be taken if too high. E.g. asked to reduce the volume or base".
19. An Environmental Health Specialist reviewed readings provided by the applicant from previous events at the premises. The following were put forward to set out the occasions where action would be taken to reduce noise from music.
 - Music noise levels should not exceed 40 dB(A) over a 15 minute period at 1m from the façade of any noise sensitive premises between 0900hrs and 2300hrs.
 - Music can be just audible but not discernible at the façade of any noise sensitive premises between the hours of 2300hrs and 0900hrs.

The Environmental Health Specialist said at 40dB the music will not be discernible within a residential property, i.e. they can probably just hear it but would not be able to make out lyrics or a beat

20. The information was provided to people who made representations. A reply was received and new proposed decibel levels were put forward of 35dB between 11:00 and 19:00 and 30dB at all other times. The reason these levels were suggested is that the Other Person measured the average ambient noise level at 32dB and said that the maximum of 40dB would be very intrusive and noticeable 1m from the façade of their property.
21. The levels proposed by the Other Person have been given to the applicant, however, a response to this has not yet been received.

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.