

Representation following the Application for a New Premises Licence at 68 Middle Street, Yeovil, Somerset, BA20 1LU

Assistant Director: Laurence Willis
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Purpose of the Report

To inform members that an application has been received from Mrs Tracey Ann Marie Else and Mr Nicholas James Else, for a premises licence to be granted under the Licensing Act 2003 for 68 Middle Street, Yeovil, BA20 1LU.

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 have been received from two Responsible Authorities, 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; 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: Mrs Tracey Ann Marie Else and Mr Nicholas James Else

Licensable activities applied for:

Plays

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Location: Indoors and Outdoors

Further Details: Don't have immediate plans for plays but want the flexibility to have them.

Seasonal Variations: None.

Non-Standard Timings: None.

Films

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Location: Indoors and Outdoors

Further Details: Don't have immediate plans for films but want the flexibility to have them.

Seasonal Variations: None.

Non-Standard Timings: None.

Indoor Sporting Events

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Further Details: Don't have immediate plans for indoor sporting events but want the flexibility to have them.

Seasonal Variations: None.

Non-Standard Timings: None.

Live Music

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Location: Indoors and Outdoors

Further Details: Don't plan to have live music but want the flexibility to have it.

Seasonal Variations: None.

Non-Standard Timings: None.

Recorded Music

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Location: Indoors and Outdoors

Further Details: Would like to have DJs and recorded music used as entertainment.

Seasonal Variations: None.

Non-Standard Timings: None.

Performances of Dance

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Further Details: Don't have immediate plans for Performances of Dance but want the flexibility to have them.

Seasonal Variations: None.

Non-Standard Timings: None.

Anything of a similar description to that falling within (e) Live Music, (f) Recorded Music or (g) Performances of Dance.

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Location: Indoors and Outdoors

Please give a description of the type of entertainment you will be providing: No plans at present but would like the flexibility to have them.

Further Details: None.

Seasonal Variations: None.

Non-Standard Timings: None.

Late Night Refreshment

Day	Start Time	Finish Time
Monday	23:00	05:00
Tuesday	23:00	05:00
Wednesday	23:00	05:00
Thursday	23:00	05:00
Friday	23:00	05:00
Saturday	23:00	05:00
Sunday	23:00	05:00

Location: Indoors and Outdoors

Further Details: To be able to offer drivers hot beverages and anyone else who would like one.

Seasonal Variations: None.

Non-Standard Timings: None.

Supply of Alcohol – On and Off Sales

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

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.

Would like to be able to offer burlesque shows or strip tease. It is just a flexibility to have for the business.

Hours Open to the Public – Not a licensable activity, but shown as part of the application.

Day	Start Time	Finish Time
Monday	00:00	23:59
Tuesday	00:00	23:59
Wednesday	00:00	23:59
Thursday	00:00	23:59
Friday	00:00	23:59
Saturday	00:00	23:59
Sunday	00:00	23:59

Seasonal Variations: None

Non-Standard Timings: None

Additional steps put forward by the applicant to comply with licensing objectives. Please Section M 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). Further other supporting documentation has also been submitted.

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 Western Gazette on 12 March 2015 of which we have a copy.

Representation – Responsible Authorities

Representations were made by Mrs Nicola King on behalf of Avon and Somerset Constabulary and Mr Nigel Marston on behalf of the Licensing Authority.

Representations – Other Persons

None

Relevant Observations

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 experienced¹.

The policy also states that after receiving representations on a new or varied application, the Licensing Authority shall consider whether it would be justified in departing from the Cumulative Impact Policy in the light of the individual circumstances of the case. For example, whereas a nightclub or high capacity public house might add to the cumulative impact problems in the identified area, a small restaurant or theatre may not. Each case will be treated on its own merit.²

Further Information

None

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 and the Cumulative Impact Policy contained within this document.
- 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 in this case 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 new mandatory conditions.
- Exclude from the scope of the licence any of the licensable activities to which the application relates s18(4)(b)

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

² Ibid at paragraph 3.2.4

- Refuse to specify a person in the licence as the premises supervisor
- 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.
