

Representation following the Application for a New Premises Licence at Thorne House, Thorne Coffin, Yeovil Somerset, BA21 3PZ

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Purpose of the Report

To inform members that an application has been received from Elinor UK Holdings Ltd, for a premises licence to be granted under the Licensing Act 2003 for Thorne House, Thorne Coffin, Yeovil Somerset, BA21 3PZ.

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 three Responsible Authorities and thirty six Other Persons, 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: Elinor UK Holdings Ltd

Licensable activities applied for as amended:

Films (B), Live Music (E), Recorded Music (F), Performance of Dance (G) and Anything of a similar description to that falling with e, f & g (H) have been removed from the application.

Late Night Refreshment (I)

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

Location: Indoors Only

Further Details: Serving of hot food and drink to guests of Agusta Westland

Seasonal Variations: None.

Non-Standard Timings:

- 24 hour for residents at the premises who are guests of Agusta Westland

Supply of Alcohol (J) – On and Off Sales

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	Midnight
Friday	10:00	Midnight
Saturday	10:00	Midnight
Sunday	10:00	Midnight

Seasonal Variations: None

Non-Standard Timings:

- 24 hour alcohol sales for residents at the premises who are guests of Agusta Westland

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	10:00	Midnight

Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	Midnight
Friday	10:00	Midnight
Saturday	10:00	Midnight
Sunday	10:00	Midnight

Non-Standard Timings:

- 24 hour opening for residents at the premises who are guests of Agusta Westland

Additional steps put forward by the applicant to comply with licensing objectives. Please note 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).

The step stated below has been added to the application by the applicant so as to promote the four licensing objectives (Category M - General):

- The sale of alcohol will be limited to guests of Agusta Westland

Evidence that advertising/notice requirements have been complied with:

- The applicant has confirmed that notice(s) were displayed at premises for the requisite period; the Licensing Enforcement Officer has visited the premises and confirmed the notices were in place at the time of his visit. A further notice was placed in the Western Gazette on 15 October 2015 of which we have a copy.

Representation – Responsible Authorities

Representations were made by:

Mrs Nicola King on behalf of Avon and Somerset Constabulary
 Mr Andrew Collins on behalf of the Planning Service
 Mr Paul Huntington on behalf of the Environmental Protection Team

Representations – Other Persons

Fifteen relevant representations representing twenty persons were received from individuals and one relevant representation was received from a Parish Council. The representations mainly concerned the potential issues of noise, property damage and an increase in traffic which could affect road safety as there is only one road which serves as both ingress and egress to the village.

Three letters and an email representing four persons were also received that were not considered to be relevant representations; those persons were written to and advised accordingly.

A representation was also received from a solicitor representing thirty local residents, fifteen of which are included in the twenty persons from whom we received a relevant representation and the four persons whose letter or email of concern was not a relevant representation and eleven other persons whom had not submitted an individual relevant representation.

Relevant Observations

The application submitted before amendment included several variants of regulated entertainment, which have now been withdrawn and also the remaining licensable activities of the sale of alcohol and late night refreshment will be restricted to guests of Agusta Westland.

The Licensing Act 2003 has been amended¹ so that should the application be granted as amended, no authorisation is required for live amplified music and recorded music between 08:00 and 23:00 for up to 500 persons providing the premises are open for the sale of alcohol for consumption on the premises. Authorisation is not required for unamplified live music; plays and dance on any premises between 08:00 and 23:00 for up to 500 persons.

Both amplified and non-amplified live music can also take place at workplaces² between 08:00 to 23:00 for up to 500 persons without authorisation; this could include a beer garden³. "A licensing authority may, where justified⁴, impose a licence condition that relates to the performance of live music in an unlicensed beer garden being served by any associated premises licence Provided such a condition is lawfully imposed, it takes effect in accordance with its terms."⁵

Should any entertainment take place at the premises which doesn't require authorisation and it causes a noise nuisance, the Environmental Protection team have powers under other legislation such as the Environmental Protection Act 1990 to deal with the problem; further the mechanism for a review of the premises licence also exists should the need arise.

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.
- 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

¹ The Live Music Act 2012 ("2012 Act") <http://www.legislation.gov.uk/ukpga/2012/2>; Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 ("2013 Order") <http://www.legislation.gov.uk/uksi/2013/1578/contents/made>; The Legislative Reform (Entertainment Licensing) Order 2014 ("2014 Order") <http://www.legislation.gov.uk/uksi/2014/3253/introduction/made>; and the Deregulation Act 2015 ("2015 Act").

² Workplace as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992. It is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.

³ Para 15.43, Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, March 2015

⁴ Including on a licence review

⁵ Para 15.44, Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, March 2015

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).

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.
