

Application for grant of a premises licence in respect of ‘Novellos Pool Bar & Sports Loft, 57 Commercial Street, Hereford, HR1 2DJ – Licensing Act 2003

Meeting: Licensing sub-committee

Meeting date: Monday 16 January 2023

Report by: Principal Licensing Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

Hereford - Central

Purpose

To consider an application for a grant of a premises licence in respect of Novellos Pool Bar & Sports Loft under the Licensing Act 2003.

Recommendation(s)

That:

The sub committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- a) The steps that are appropriate to promote the licensing objectives,
- b) The representations (including supporting information) presented by all parties,
- c) The guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- d) The Herefordshire Council Statement of Licensing Policy 2020 – 2025.

Reasons for Recommendations

Ensures compliance with the Licensing Act 2003

Further information on the subject of this report is available from
Principal Licensing Officer, 01432 261761, email: licensing@herefordshire.gov.uk

Alternative options

1. There are a number of options open to the sub-committee:
 - a) Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003,
 - b) Grant the licence subject to modified conditions to that of the operating schedule where the sub-committee considers it appropriate for the promotion of the licensing objectives and add mandatory conditions set out in the Licensing Act 2003,
 - c) To exclude from the scope of the licence any of the licensable activities to which the application relates
 - d) To refuse to specify a person in the licence as the premise supervisor, or
 - e) To refuse the application

Key considerations

Licence Application

2. The application for the grant of a premises licence has received relevant representations and is therefore brought before the sub-committee for determination.
3. Herefordshire Council Statement of Licensing Policy 2020 to 2025 states “All representation must be ‘relevant’, for example they must be about the likely effect of the grant of the application”. This followed paragraph 8.57 in the s182 Guidance which uses the same wording.
4. The details of the application are:

Applicant	John Meredith & Danny Gagg
Agent	Not Applicable

Type of application:	Date received:	28 Days consultation ended:
Grant	22 November 2022	20 December 2022
	28 day consultation started:	
	23 November 2022	

Summary of Application

5. The application (appendix 1) requests the grant of a premises licence to allow the following licensable activities, during the hours shown, as follows:

Live Music (Indoors)

Friday & Saturday 17:00 – 01:00

Recorded Music (Indoors) & Sale/Supply of Alcohol (for consumption off the premises)

Monday – Wednesday 12:00 – 23:30

Thursday 12:00 – 00:00

Friday 12:00 – 01:00

Saturday 10:00 – 01:00

Sunday 10:00 – 23:00

Late Night Refreshment (Indoors)

Monday – Wednesday 23:00 – 23:30

Thursday 23:00 – 00:00

Friday 23:00 – 01:00

Saturday 23:00 – 01:00

Non-Standard Timings (for all licensable activities listed above)

Bank Holiday Sunday & Monday and Christmas Eve until 01:00

New Year's Eve from until 02:00

The proposed Designated Premises Supervisor (DPS), John Meredith has not been granted a personal licence by their local authority at the time this report was produced

NB: Under the Live Music Act 2012 (as amended), an alcohol licenced premises can have live and/or recorded music from 08:00 – 23:00 for up to 500 people, without the need for these activities to be on a premises licence

Late Night Refreshment (sale/supply of hot food and/or hot drinks) is only applicable between Monday - Sunday 23:00 – 05:00

Summary of Representations

6. One (1) objection has been received from a responsible authority – West Mercia Police (Appendix 2).

7. Two (2) representations have been received from responsible authorities, Trading Standards (appendix 3) and Environmental Health (appendix 4). These conditions have been agreed by the applicants and therefore their representations have been withdrawn.
8. One (1) relevant representation has been received from a member of the public in line with the licensing objectives that the Licensing Authority have accepted as being relevant. (Appendix 5).
9. One (1) representation was received from a member of the public which the Licensing Authority has deemed not relevant due to being submitted anonymously. *The act states: You must make your representation in writing including your name, address and contact details*

Community impact

10. Any decision may have an impact on the local community.

Environmental Impact

11. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal environmental impacts for the council as Licensing Authority.

Equality duty

12. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
13. There are no equality issues in relation to the content of this report.
 14. This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in section 1 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
 15. Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his

possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

Resource implications

16. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal resource implications for the council as Licensing Authority.

Financial implications

17. There are unlikely to be any financial implications for the council as Licensing Authority at this time.

Legal implications

18. As relevant representations have been received, the sub committee must determine the application under Section 3.5.7 (c) of the Herefordshire Council constitution. The representations must relate to the licensing objectives and the sub committee must determine the likely effect of the grant of the premises licences on the promotion of the licensing objectives.
19. The Licensing Authority must have regard to the promotion of the four licensing objectives namely; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm in exercising its functions under the Licensing Act 2003. Further regard should be had to the statutory guidance under Section 182 of the Act and the Council's own statement of licensing policy. The options available to the Licensing Authority are set out in section 1 of this report.
20. The sub committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.
21. The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black. In this case it was summed up that: -
22. A Licensing Authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.
23. Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.
24. This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

25. In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

Right of Appeal

26. Schedule 5 Part 1 of the Licensing Act 2003 gives a right of appeal which states:
Decision to grant premises licence or impose conditions etc.
- (1) This paragraph applies where a licensing authority grants a premises licence under section 18.
 - (2) The holder of the licence may appeal against any decision—
 - (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).
 - (3) Where a person who made relevant representations in relation to the application desires to contend—
 - (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section, he may appeal against the decision.
 - (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 18(6).
27. Appeals should be made to the Magistrates Court and must be made within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against

Risk management

28. There is little risk associated with the decision at this time as the legislation allows a right of appeal to the Magistrates Court within a period of 21 days of being notified of the decision in writing.

Consultees

29. All responsible authorities and members of the public living within Herefordshire.

Appendices

- Appendix 1 - Application Form
- Appendix 2 – West Mercia Police Objection
- Appendix 3 – Trading Standards representation
- Appendix 4 – Environmental Health representation
- Appendix 5 – Public Representation

Background papers

None Identified

Please include a glossary of terms, abbreviations and acronyms used in this report.