

## Agenda Item

**REPORT OF** LEAD LICENSING OFFICER

**To:** LICENSING SUB-COMMITTEE

**Subject:** LICENSING ACT 2003 (s.17) – APPLICATION FOR PREMISES LICENCE  
THE BEACON, BEACONSIDE, MONKLEIGH

**Date:** 7 FEBRUARY 2018

**Reference:** LAPRE1/00023/18

### PURPOSE OF REPORT:

To provide the sub-Committee with information relating to an application for a premises licence for the The Beacon, Beaconside, Monkleigh to enable the sub-Committee to determine the application.

## 1. INTRODUCTION

An application for a premises licence for the above premises has been made to Torridge District Council under s.17 of the Licensing Act 2003 by Mr Mark Singer. The Licensing Authority has received relevant representations about the application and, in accordance with s.35(3) of the Act, the application must now be determined by a sub-Committee of the Council's Licensing Committee at a licensing hearing.

## 2. BACKGROUND

The premises to be licensed is a new build called The Beacon. It is currently under construction and will be completed by March 2018. The premises is located on the A388 between Landcross and Monkleigh. The purpose of the new building is to host weddings and to provide food, alcohol and music for a maximum capacity of 200 persons. The site has previously been used to host weddings in a marquee with licensing permissions obtained through the use of Temporary Event Notices.

A map of the premises location is provided in Appendix A.

## 3. THE APPLICATION

The application is seeking to licence the following activities:

### Performance of live music (indoors and outdoors)

Monday to Saturday	12:00 - 01:00
Sunday	12:00 - 23:00

### Playing of recorded music (indoors and outdoors)

Monday to Saturday	10:00 - 01:00
Sunday	10:00 - 23:00

### Late Night Refreshment (indoors)

Monday to Saturday	23:00 - 01:00
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## **Supply of alcohol for consumption ON the premises**

Monday to Saturday 11:00 - 01:00  
Sunday 11:00 - 23:00

### **Non-Standard Timings**

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

## **Opening Hours**

Monday to Saturday 10:00 - 01:30  
Sunday 10:00 - 23:30

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

## **5. REPRESENTATIONS**

### **5.1 Responsible Authorities**

No representations have been received from the Responsible Authorities.

### **5.2 Other Persons**

We initially received 12 representations objecting to the application. 3 representations were withdrawn following amendments to the application. Details of the amendments are detailed in paragraph 6.

At the hearing persons making representations may expand on and add further detail to their written representations but they may not add further or different representations to those disclosed to the applicant prior to the hearing. (*Home Office Guidance 9.37*)

Copies of the representations objecting to the application are provided in Appendix B.

## **6. AMENDMENT TO THE APPLICATION**

If the Licensing Authority receives relevant representations it must hold a hearing to consider them. In the meantime, the Licensing Authority, the applicant and any person or body who has made a representation can negotiate an agreeable way forward, and where written agreement is reached between all parties, the hearing may be cancelled

In respond to the objections received the applicant put forward the following amendments to the application.

*Removal of outdoor music from the licence*

The inclusion of the following conditions:

*“All external doors and windows shall be kept shut at all times during regulated entertainment. Doors may be opened for normal entrance and egress of people but must be shut immediately after.”*

*“Staff will monitor noise levels in the immediate vicinity of the premises after 23:00 to ensure noise levels do not cause a disturbance to nearby residents.”*

The applicant also provided a letter to the objectors to provide an overview of his business objectives.

Details of the mediation correspondence are attached in Appendix C.

## **7. POLICY ISSUES**

**7.1** The Authority has a duty under s.4 of the Licensing Act 2003 to carry out its licensing functions with the aim of promoting the four licensing objectives. The objectives are:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

**7.2** The representations centre on the licensing objective of prevention of public nuisance. The objectors are concerned about the potential for noise from music played at the premises and disturbance from guests leaving the car park when the premises closes.

There is also some concern relating to potential crime and disorder.

**7.3** With regard to noise nuisance, paragraph 5.3.3 of the Authority's Statement of Licensing Policy ('the Policy') states that the Authority, when determining applications, will have regard to wider considerations affecting the residential population, businesses and the amenity of the area.

**7.4** The Policy states that the Authority will expect applicants to have particular regard to noise issues and to include in their operating schedule *adequate and effective steps to control noise and disturbance from their premises*" (paragraph 5.3.4).

Proposed conditions of licence are included in Appendix D.

**7.5** The objectors refer to previous issues of noise disturbance. The Licensing Authority has a record of only one complaint made in 2014. This complaint was made when the event was held in a marquee.

**7.6** Amendments to licence requirements in respect of live and recorded music were made by the Live Music Act 2012 and the Legislative Reform (Entertainment Licensing) Order 2014. The effect of these amendments is that no licence permission is required for the following activities:

- *performance of unamplified live music between 08:00 and 23:00 on any day on any premises.*
- *a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.*
- *Any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500."*

**7.7** The objectors should be aware that, if a licence is granted, they do have the protection of the 'review' process. At any time after the grant of a licence, a person may apply for a review of the premises licence if there are problems at the premises which undermine the licensing objectives. This is a valuable safeguard for local residents.

- 7.8** When considering this matter, the sub-Committee must have regard to government guidance. This makes it clear that the four licensing objectives should be *'paramount at all times'*. (Home Office Guidance 1.4). Where there are objections to an application, the sub-Committee must have regard to these and to the 'likely effect' on the licensing objectives of granting the application.
- 7.9** It is a fundamental principle of the Licensing Act that each application must be considered on its own merits. (Guidance 1.17; Policy 5.3.1).
- 7.10** If the sub-Committee, having considered the application, believes that extra measures are required in order to promote the licensing objectives, it may attach additional conditions to the licence provided that these are appropriate, reasonable and proportionate (Policy 7.2) or it may alter or amend any existing conditions. The sub-Committee must not impose conditions which would be beyond the control of the licence holder. (Guidance 1.16; Policy 7.6). The sub-Committee should also avoid imposing any conditions which would duplicate other statutory regulations (e.g. Health & Safety legislation, fire regulations).
- 7.11** The sub-Committee is advised to take the above matters into consideration when reaching their decision. Members are reminded that they should not consider any irrelevant matters and must confine their deliberations solely to the issues identified in the representations. The sub-Committee may depart from Policy guidelines if there are sound and justifiable reasons for doing so. Any departure from Policy should be fully explained to the parties at the hearing. (Guidance 1.12)

## **8. CONCLUSIONS**

- 8.1** When deciding whether this application should be granted, the sub-Committee should bear in mind that it is essentially making a judgement about risk. If, having regard to all the evidence, the sub-Committee believes that there is no or minimal risk to the promotion of the licensing objectives, then the application should be granted on the terms applied for. If the sub-Committee believes that there are risks which will undermine the objectives, then it should seek to mitigate those risks – either by modifying the application or – in the case of serious and significant risk - by outright refusal of the application.
- 8.2** Under s.35(4) of the Act, when determining this application, the sub-Committee must – having regard to the representations received - take such steps as it considers appropriate to promote the licensing objectives. The options are:
- To grant the application as submitted,
  - To modify timings and/or the conditions of the licence to the extent necessary to promote the licensing objectives,
  - To reject all or part of the application.
- 8.3** In determining the application, the sub-Committee must give appropriate weight to:
- evidence presented at the hearing,
  - Guidance issued by the Home Office under s.182 of the Act,
  - the Council's Statement of Licensing Policy
  - any advice given by the Council's Legal Advisor during the hearing.
- 8.4** Any party to the hearing may appeal to the Magistrates' Court against the decision of the Licensing sub-Committee. The appeal must be made within 21 days of the date of notification of the sub-Committee's decision.

## **9. RECOMMENDATION**

It is recommended that:

The Licensing sub-Committee determine the application for a premises licence for The Beacon, Beaconside, Monkleigh having regard to the information provided in this report, guidance issued by the Home Office under s.182 of the Act, the Council's Statement of Licensing Policy and the evidence presented during the hearing.