

## Agenda Item

**REPORT OF** LEAD LICENSING OFFICER

**To:** LICENSING SUB-COMMITTEE

**Subject:** LICENSING ACT 2003 – APPLICATION FOR A PREMISES LICENCE –  
CORNWALL EVENT HIRE

**Date:** 19 JANUARY 2024

**Reference:** LAPRE1/00568/23

### **PURPOSE OF REPORT:**

To provide the sub-Committee with information relating to an application for a premises licence for Cornwall Event Hire 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 in accordance with the Licensing Act 2003. 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 is located on land on the South-East side of Kinangop, Winkleigh, EX19 8DN at grid reference 262496 109556. The site is used as a warehouse and storage facility for the applicant's events business. The area consists of a mix of commercial premises and agricultural land with some residential properties in the vicinity.

The application was submitted on 18 September 2023. The original intention was to hold a Christmas event on 16 December 2023.

A Safety Advisory Group meeting was held on 11 October 2023 and issues were discussed specifically relating to the proposed event on 16 December 2023. The SAG provided advice and guidance and requested a revised Event Management Plan by 16 November 2023.

The closing date for the licence application was 16 October 2023. Objections were received and a hearing was arranged. However, the proposed event on 16 December was cancelled. It was therefore decided, as there was no longer a time pressure to obtain the licence for the December event, to rearrange the hearing. There had been concerns from objectors that the application had not been properly advertised. Fifteen objections had been received but it was decided to readvertise the application with a new closing date of 3 January 2024.

## **3. THE APPLICATION**

The application is detailed in Appendix A.

The proposed licence activities and hours are as follows:

**Plays, films, (e) live music, (f) recorded music, (g) performance of dance, anything of a similar description to that falling within (e), (f) or (g).**

Monday to Sunday 07:30 – 02:30

**Late night refreshment**

Monday to Sunday 23:00 – 02:00

**Supply of alcohol for consumption on and off the premises**

Monday to Sunday 07:30 – 01:30

Operations centre

Monday to Sunday 00:00 – 00:00

**Hours premises are open to the public**

Monday to Sunday 07:30 – 03:00

The proposed licence conditions have been amended with the agreement of the applicant after consultation with the Responsible Authorities. The revised licence conditions are included in Appendix B.

## **4. REPRESENTATIONS**

### **4.1 Responsible Authorities**

A representation has been received from the Food and Safety Team acting as a responsible authority. This is detailed in Appendix C.

### **4.2 Other Persons**

Twenty five objections have been received from members of the public.

These objections are provided in Appendix D.

A petition was also submitted but has not been included in the report as it did not comply with the full requirements of a valid petition.

The objectors highlight a number of issues. However, the only issues that can be taken into consideration by the sub-committee are those that relate specifically to the licensing objectives. These have been highlighted in yellow.

It is important to note that some of the objectors refer to planning matters. The planning and licensing regimes are two separate processes. Licensing committees are not bound by decisions made by planning committees and vice versa.

In summary, the relevant matters to consider are:

- Noise from music.
- Noise from patrons leaving the event.
- Public safety relating to access and egress from the site.
- Concerns relating to crime and disorder.

Advice has been obtained from Devon County Council Highways in respect of the access and egress to and from the site. They have highlighted issues to be considered by the applicant. The advice is provided in Appendix E.

## 5. POLICY ISSUES

5.1 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

5.2 The representations relate to the following licensing objectives:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance

5.3 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. These include alcohol-related violence and disorder, anti-social behaviour, littering, fouling, noise and the capacity of infrastructure and police resources to cope with the movement of large numbers of people, particular late at night and in the early morning.

5.4 Paragraph 5.3.4 states that the vast majority of complaints about licensing premises are caused by public nuisance, in particular excessive noise from live and recorded music and disturbance caused by customers congregating outside licensed premises. The Authority will expect applicants to have particular regard to these issues and to include in their operating schedules adequate and effective steps to control noise and disturbance from their premises.

5.5 Paragraph 5.3.6 states when determining an application, the Authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant may be disregarded.

5.6 Paragraph 6.3 states "Licensed hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives. The Licensing Authority may, however, set an earlier terminal hour where it considers this appropriate to the nature of the activities and the amenity of the area."

5.7 It should be noted that, if a licence is granted, residents 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.

5.8 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.

5.9 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).

- 5.10** 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).
- 5.11** 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 relating to the licensing objectives.
- 5.12** 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)

## **6. CONCLUSIONS**

- 6.1** 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.
- 6.2** 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.
- 6.3** 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.
- 6.4** 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.

## **7. RECOMMENDATION**

It is recommended that:

The Licensing sub-Committee determine the application for a premises licence for Cornwall Event Hire 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.