

Report to: Licensing Sub-Committee

Date: 4 September 2020

Title: Application for a Premises Licence. Vino Bro's Ltd,
11 Piltdown Way, Eastbourne, BN23 8LB

Report of: Director of Service Delivery

Ward(s): Langney

Purpose of report: To provide information in order that the Sub-Committee can determine an application for a Premises Licence

Officer recommendation(s): The Sub-Committee is asked to determine the application in accordance with the Licensing Act 2003 (as amended), LDC Licensing Policy and The Home Office Guidance issued per Section 182 Licensing Act 2003 , whilst having due regard to the applicant's submissions and relevant representations.

Reasons for recommendations: An application has been received for a Premises Licence, pursuant to Section 17 Licensing Act 2003. Representations against the application have been made by a number of local residents.

Contact Officer(s): Name: Paul Thornton
Post title: Specialist Advisor (Licensing)
E-mail: paul.thornton@lewes-eastbourne.gov.uk
Telephone number: 01323 415140

1 Introduction

- 1.1 An application has been made to Eastbourne Borough Council for a Premises Licence at Vino Bro's Limited, 11 Piltdown Way, Eastbourne, BN23 8LB. The applicant is Vino Bro's Limited with two directors Mr Luke Mould and Mr James Mould. A copy of the application and plan is included at **Appendix 1**. A site overview is attached at **Appendix 2**.
- 1.2 The licensable activities applied for are:
- | | |
|-----------------------------------|----------------------------|
| Sale of Alcohol – For Consumption | Mon – Sun, 1100 – 2100 hrs |
| Off Premises | |
- 1.3 When submitting an application for a new premises licence the applicant is required to describe any steps they intend to take to promote the four licensing objectives, as defined by the Licensing Act 2003.

1.3.1 General

1. The premises will only be used for the storage and dispatch of alcohol for consumption off the premises by way of a delivery service only.
2. No members of the public will be allowed to access the premises for the purposes of purchasing alcohol.
3. The hours when alcohol may be dispatched from the premises for off sales by way of delivery will be limited to 1100-2100.
4. Any delivery of alcohol will only be made to a customer's place of business or residency.

1.3.2 The prevention of crime and disorder

Please see 1.3.1 above

1.3.3 Public safety

Please see 1.3.1 above

1.3.4 The prevention of public nuisance

Please see 1.3.1 above

1.3.5 The protection of children from harm

1. Where alcohol is ordered remotely through the internet then access to the website through which the alcohol will be sold will be limited to those persons who are over the age of 18 and those persons who are accessing the website will be asked to confirm that they are over 18 and will be advised that if they appear to be under the age of 25 upon delivery of alcohol they will be asked for evidence to prove they are over the age of 18. The only evidence that will be accepted, they will be advised, will be the following:
 - a) Passport
 - b) Photographic Driving Licence
 - c) Identification card bearing the PASS hologram
 - d) Military Identification
2. Upon the delivery of alcohol, if the person taking delivery of the alcohol appears to be under the age of 25 they will be asked for the following identification to prove they are over the age of 18:
 - a) Passport
 - b) Photographic Driving Licence
 - c) Identification card bearing the PASS hologram
 - d) Military Identification
3. Alcohol, upon delivery will never be left in a safe place and will always be handed to somebody who is over the age of 18.
4. In the event that a delivery to a customer is refused on the basis of their

sobriety or age then a note of this refusal will be kept by the Premises Licence Holder.

2 Background Information

- 2.1 Vino Bro's is a small wine company trading through the internet. It doesn't seek to sell alcohol to customers calling directly at the premises, which is the home address of one of the directors. The hours sought are 1100-2100 every day and reflect the hours during which collections for delivery will be made.
- 2.2 The applicant was required to advertise both on the premises and in a local newspaper in order to inform the public of the application. Application details were also advertised on the Council's website.
- 2.3 A consultation period took place between 11th July 2020 and 7th August 2020. Responsible Authorities (listed below at 3.2) were consulted as part of the process.
- 2.4 The applicant conformed with all requirements in accordance with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

3 Representation received from Responsible Authorities

- 3.1 The following Statutory Bodies (described as Responsible Authorities by the Licensing Act 2003) were consulted about this application.

3.2	Sussex Police	See comments at para 3.3
	Environmental Health	No comment made
	East Sussex Fire and Rescue	No comment made
	East Sussex Child Protection Team	No comment made
	Trading Standards	No comment made
	LDC Health and Safety	No comment made
	LDC Planning	No comment made
	Public Health	No comment made
	Home Office Immigration	No comment made

- 3.3 During the consultation process Sussex Police made no representations on the basis that the conditions offered in the Operating Schedule would be included in the licence if it were granted. A copy of the email correspondence is attached at **Appendix 3**.

4 Representation received from others

- 4.1 A total of six relevant representations have been received in response to this application. Those making representations all reside in the same road as the applicant. Copies of the representations are at **Appendix 4**.

The grounds for objection relate to public nuisance:

- Deliveries and collections by lorries and vans causing a noise nuisance in a narrow residential road.

All of the representations mention parking as an issue for the residents, including one which seeks a guarantee the owner will be able to remove the car from her driveway. The Sub Committee are entitled to disregard such comments as they fall outside the remit and responsibility of the licence holder. It is a public highway. Responsibility for parking properly rests with the driver of the vehicle.

5 Mediation

5.1 On the basis of the representations, it is considered unlikely that this application will be successfully mediated before the Sub Committee hearing.

6 Licensing Sub-Committee Considerations

6.1 In determining the application with a view to promoting the licensing objectives the Sub-Committee must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations presented by all the parties
- The Home Office Guidance issued under section 182 Licensing Act 2003
- The Lewes District Council Statement of Licensing Policy
- Any other relevant legislation

6.2 The Licensing Act 2003 requires representations to address the four Licensing Objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a *likely* effect of a grant (i.e. more probable than not).

6.3 Eastbourne Borough Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. It covers the licensable activities for retail sale of alcohol, which is the subject of this application. A copy of the Licensing Policy is attached at **Appendix 5**.

6.4 The aims of the Policy are to secure the safety and amenity of residential communities, to help ensure a sustainable environment and provide regulation of the cultural/entertainment industry, and to promote the four Licensing Objectives.

6.5 The three guiding principles (set out in paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

6.6 In each case that arises following representation, the Policy states that the Council will:

- Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of residents to peace and quiet.
- Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
- Consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

6.7 The relevant sections of the Home Office Guidance are attached at **Appendix 6**.

6.8 The Licensing Sub-Committee should be mindful of requirements and responsibilities placed on them by other legislation, in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the Equality Act 2010 and the Human Rights Act 1998.

6.9 The Sub-Committee is asked to note the procedures relating to this hearing which are contained within The Licensing Act 2003 (Hearing Regulations) 2005 (as amended) and attached at **Appendix 7**.

7 Options

7.1 When considering this application for a premises licence the following options are available to the Sub-Committee:-

- Grant the Licence in the same terms as it was applied for (in light of the mediated conditions);
- Grant the Licence, but modify the conditions as appropriate for the promotion of the licensing objectives;
- Grant the Licence, but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives;
- Reject the application.

8 Right of Appeal

8.1 Under Section 181 and Schedule 5 of the Act, there is a right of appeal to the Magistrates' Court in respect of applications for new licences. This right of appeal is open to both the applicant and to any person who has made relevant representation. The appeal application must be made within 21 days of the written notification of the Sub-Committee's decision.

9 Financial appraisal

9.1 A decision made by the Sub-Committee may be appealed by any party to the proceedings to a Magistrates Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the

Council.

10 Legal implications

- 10.1 Under section 18 of the Licensing Act 2003 (as amended), following receipt of an application for a premises licence, under section 17 of the 2003 Act, if relevant representations are received, and unless all parties agree that a hearing is unnecessary, then the Licensing Authority must hold a hearing. At the hearing the Sub-Committee shall having regard to the representations take such steps as it considers appropriate for the promotion of the licensing objectives. The relevant options are outlined in para. 7.1 of this Report.
- 10.2 The Legal Section considered this Report on 20 August 2020 (IKEN -9458-EBC-MW)

11 Risk management implications

- 11.1 There are no risks associated with the content of this Report.

12 Equality analysis

- 12.1 An Equality Analysis is not constructive in this instance.

13 Environmental sustainability implications

- 13.1 There are no sustainability and/or carbon reduction implications associated with this Report.

14 Appendices

- Appendix 1 - Application and Plan of site
- Appendix 2 - Site Overview
- Appendix 3 - Representation - Sussex Police
- Appendix 4 - Representations - local residents
- Appendix 5 - Eastbourne Borough Council Licensing Policy
- Appendix 6 - Relevant sections of Home Office Guidance
- Appendix 7 - Hearing Regulations 2005 (as amended)