

Report to: Licensing Sub-Committee

Date: 5th August 2022

Title: Application for a new Premises Licence Apiary by Bell Ltd, 29 High Street, Lewes, BN7 2LU

Report of: Director of Service Delivery

Ward(s): Lewes Bridge

Purpose of report: To consider representations made against the new Premises Licence application under the Licensing Act 2003 and make a decision on the application.

Officer recommendation(s): To consider representations made against the new Premises Licence application under the Licensing Act 2003 and make a decision on the application.

Reasons for recommendations: Relevant representations made within consultation period

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1 Introduction

- 1.1 Lewes District Council received an application for a new Premises Licence under the Licensing Act 2003 for 29 High Street, Lewes, BN7 2LU from Apiary by Bell Ltd (**Appendix 1**).
- 1.2 Apiary by Bell Ltd submitted a Plan of the premises with the Licensable area outlined in red. (**Appendix 2**).
- 1.3 29 High Street is a commercial premise with a basement and garden patio at the back of the premises, situated in the center of Lewes town. Residential dwellings are situated above the premises.

2 The Application

2.1 An application for the grant of a new premises licence under the Licensing Act 2003 for the following licensable activities:

2.2 Sale by Retail of Alcohol (on and off the premises)

Monday to Sunday 8:00hrs until 23:30 hrs

With a non-standard timing on New Years Eve until 01:00hrs the following morning

2.2 Late Night Refreshment (on and off the premises)

Monday to Sunday 23:00hrs until 23:30hrs

With a non-standard timing on New Years Eve until 01:00hrs the following morning

2.3 Recorded Music (indoors only)

Monday to Sunday 08:00hrs until 23:30hrs

With a non-standard timing on New Years Eve until 01:00hrs the following morning

2.4 Opening Hours

Monday to Sunday 08:00hrs until 00:00hrs.

With a non-standard timing on New Years Eve of 08:00hrs until 01:00hrs the following morning.

The application states that the rear garden will be closed from 22:30 each night

3 Licensing Objectives

3.1 When applying for a new premises licence under the Licensing Act 2003, 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. The Operating Schedule detailing these steps can be seen in the application form. This is included at (**Appendix 1**)

4 Consultation Process

- 4.1 The Licensing Act 2003 requires applicants to advertise both on the premises and in a local newspaper in order to inform the public of the application. The application details are also advertised on the council's website. Several "Responsible Authorities" have also been consulted as part of the process. There was a consultation period of 28 days, from 14th June 2022 to the 11th July 2022, for representations to be made. The applicant conformed with all the requirements as laid out within The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.
- 4.2 During the consultation period no representations were made by the responsible authorities however, Sussex Police agreed conditions with the applicant.
(Appendix 3)
- 4.3 During the consultation period four valid representation were submitted by members of the public **(Appendix 4,5,6 and 7)**. There was one representation submitted which was rejected and two that were out of time.
- 4.4 Members are asked to note not all the information provided within these representations is valid within the Licensing Act 2003.

5 The Decision Making Process - The Licensing Objectives

- 5.1 In their decision making, the Licensing Sub-Committee must act to promote the four Licensing Objectives. All carry equal weight as part of the process. The Licensing Objectives are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of children from Harm
- 5.2 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 Lewes District Council's Statement of Licensing Policy & Section 182 Guidance

- 6.1 Copies of the Council's Statement of Licensing Policy have previously been circulated to Members. A copy is also retained in the Members' Room.
- 6.2 Whilst each application will be considered on its merits, the Licensing Sub-Committee will act to promote the four licensing objectives and have due regard to:

- Lewes District Council's Statement of Licensing Policy 2022
- Section 182 Guidance issued by the Home Office.

6.3 Lewes District Council's Statement of Licensing Policy outlines the matters that the Authority will consider when determining matters under the Licensing Act 2003. An overview of the Licensing Objectives referred in the relevant representations appears below.

6.4 The Licensing Sub Committee 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. It will examine the potential steps which could be taken to reduce the risk of these matters particularly in areas of dense residential accommodation. It will consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives would be undermined.

7 Representations

7.1 A copy of the representations are included at **Appendix 4,5,6 and 7** however a summary appears below:

'Interested Parties'

Four representation have been received, the representatives have made comments relevant to the Prevention of Public Nuisance and the Prevention of Crime and Disorder.

Representations from Responsible Authorities

The following summarises whether representations have been received from responsible authorities:

- **Sussex Police** – No representation. Agreed Conditions
- **Lewes District Council (Specialist Advisor) Environmental Health** – No representation
- **Lewes District Council (Specialist Advisor) Health and Safety** – No representation.
- **Lewes District Council (Specialist Advisor) Planning** – No representation.
- **Lewes District Council (Specialist Advisor) Licensing** – No representation
- **East Sussex Fire and Rescue Service** – No representation
- **Area Child Protection Team**– No representations
- **Trading Standards (East Sussex County Council)** – No representation.
- **Primary Care Trust**- No representation

7.2 Mediation was offered to the applicant who it is understood has made contact with those who have made representations.

8 Options open to the Sub-Committee

8.1 The Licensing Sub-Committee shall take the steps it considers appropriate for the promotion of the Licensing Objectives and may:

- Grant the Licence in the same terms as it was applied for.
- Grant the Licence but modify the conditions as appropriate for the promotion of the licencing objectives.
- Grant the Licence but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives.
- Reject the application.

8.2 The Sub-Committee are asked to note the procedures relating to this hearing which are contained in The Licensing Act 2003 (Hearing) Regulations 2005, as amended.

8.3 In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered appropriate and proportionate on a case-by-case basis. The applicant, any person or any Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives. The Sub-Committee may not impose any condition unless its discretion has been exercised following receipt of a relevant representation and is satisfied that it is appropriate to promote one or more of the licensing objectives.

9 Financial appraisal

9.1 The cost of delivering the licensing function is fully covered by the Licensing fees.

9.2 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. The impact of these additional costs (if any) will therefore need to be met from within existing revenue budgets.

10 Legal implications

- 10.1 Under section 18 Licensing Act 2003 (as amended), following receipt of an application for a premises licence if relevant representations are received, unless all parties agree that a hearing is unnecessary, 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. 8.1 of this Report.
- 10.2 The Licensing Sub Committee should be mindful of the requirements and responsibilities placed on it 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 2020, the Human Rights Act 1998 and the Crime and Disorder Act 1998.
- 10.3 Under section 181 and Schedule 5 Licensing Act 2003 there is a right of appeal to the Magistrates' Court in respect of application for new premises licences. This right of appeal is open both to the applicant and to any person who has made relevant representations. The appeal application must be made within 21 days of the written notification of the Sub Committees decision to the appellants.
- 10.4 The Legal Section considered this Report on 26 July 2022 (Iken 11250- LDC-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

- 14.1
- Appendix 1 - Application for a new premises licence under the Licensing Act 2003
 - Appendix 2- Application Plan submitted for Premises Licence Application.
 - Appendix 3- Police agreed conditions
 - Appendix 4- Representation made by a member of the public
 - Appendix 5- Representation made by a member of the public

- Appendix 6- Representation made by a member of the public
- Appendix 7- Representation made by a member of the public

15 Background papers

15.1 The background papers used in compiling this report were as follows:

- Section 182 Statutory Guidance to the Licensing Act 2003
- Lewes District Council Licensing Statement 2017-2022
- Human Rights Act 1998
- Equality Act 2010
- Crime and Disorder Act 1998