



LICENSING SUB-COMMITTEE

Thursday, 20 October 2016

REPORT FOR PREMISES LICENCE VARIATION APPLICATION HEARING

Application Ref

009626

Applicants Name

Mrs Dawn Burgess

Premises Address

Blues and Bloater, 6 Mill
Road, Lowestoft

Ward

Kirkley

Date Application
Received

30th August 2016

Determination by

25th October
2016

SUMMARY OF APPLICATION

- This report sets out a variation application for a premises licence for **Blues and Bloater** (attached as Appendix A). The premises currently holds a premises licence (attached as Appendix B).
- The application was made to extend the hours for recorded music and the sale by retail of alcohol.
- During the consultation period two letters of objections have been received from members of the public highlighting their concerns about the application (attached as Appendix C).

1. THE APPLICATION

1.1 The application seeks to allow:

Recorded Music

Monday to Wednesday	10.00 to 24.00
Thursday to Saturday	10.00 to 02.00
Sunday	11.00 to 24.00

Sale by retail of alcohol both on the premises.

Monday to Wednesday	09.00 to 24.00
Thursday to Saturday	09.00 to 02.00
Sunday	09.00 to 24.00

Hours Premises are open to the Public

Monday to Wednesday	09.00 to 00.30
Thursday to Saturday	09.00 to 02.30
Sunday	09.00 to 00.30

1.2 As part of the operating schedule attached to the application, a number of conditions that the licence holder would have to adhere to in order to address the licensing objectives have been listed. (see appendix A). These are in addition to the conditions on the existing licence (Appendix B)

2. REPRESENTATIONS IN OBJECTION

2.1 Representations from Other Parties -

NAME	ADDRESS	STATUS
Mr Matthew Grafton	5 St Johns Road, Lowestoft	Member of the Public (MOP)
Mr Matthew Knights	2 Cleveland Road, Lowestoft	MOP

2.2 SUMMARY OF OBJECTIONS

Two letters of objection have been received from residents both of whom have grave concerns that their quality of life and their locality would be adversely affected by the grant of this licence; especially if the late hours requested were approved.

The residents note that they have been disturbed by customers from the premises over a number of years.

3. POINTS FOR CONSIDERATION

3.1 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

3.2 The attention of the Sub-Committee is drawn to the following:

a) The Licensing Act 2003 Section 4 requires the Sub-Committee to have regard to:

- Guidance Issued under Section 182 of the Licensing Act 2003.
- The Council's Statement of Licensing Policy

If the Sub-Committee has reason to depart from the above it is asked to give full reasons for so doing.

b) Human Rights Act 1998

- The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.
- It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.

As far as the applicant's right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing Sub-Committee. If this application is refused or granted subject to modification, the applicant has a right of appeal to the Magistrates' Court.

Article 1 of the First Protocol deals with the protection of property, in this context a licence, if granted. This article states that no-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law.

In assessing the impact of human rights the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a "possession" and the human right is expressed to be for the "peaceful enjoyment" of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

3.3 The relevant notices about this hearing have been served on the applicant and interested parties and they have until 13th October 2016 to confirm that they intend to attend (or not) as the case may be and give notice that they wish to call witnesses.

3.4 If the decision reached by the Sub-Committee results in differences between the conditions attached to the licence and the planning permission currently in force for these premises, the applicant should be advised that the planning permission must be adhered to unless and until it is amended to reflect the conditions attached to the licence.

RECOMMENDATION

The Sub-Committee will be asked to determine this application and has the option to:

1. Grant the application subject to such conditions as are consistent with the operating schedule accompanying the application and any condition which must be included in the licence in accordance with the Licensing Act 2003.
2. Grant the application subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the Sub-Committee considers necessary for the promotion of the licensing objectives, and any condition which must be included in the licence in accordance with the Licensing Act 2003.
3. Refuse the application.

Depending on the decision of the Sub-Committee, the applicant and the objectors have rights of appeal to the Magistrates Court.

When announcing its decision, the Sub-Committee is asked to state its reasons.

APPENDICES

Appendix A – Application.

Appendix B – The premises licence currently in force for the premises.

Appendix C – Representations from members of the public in objection to the application.

BACKGROUND PAPERS

The Waveney District Council Statement of Licensing Policy, The Licensing Act 2003 (“the Act”) and the Guidance issued under section 182 of the Act.