

## **Somerset West and Taunton Council**

### **Licensing sub-committee – 27 October 2020**

#### **Application for the grant of a Premises Licence under the Licensing Act 2003**

**This matter is the responsibility of Cllr Sarah Wakefield**

**Report Authors: Brad Fear & Nicola Yendall, Case Managers (Licensing)**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 Members are asked to consider an application for the grant of a Premises Licence under the Licensing Act 2003 for Exmoor Studios CIC, 6 Bank Square, Dulverton, Somerset. TA22 9RU

#### **2 Recommendations**

- 2.1 As relevant representations have been received by the licensing authority, the sub-committee must take such steps as it considers appropriate for the promotion of the four licensing objectives, being:

- The prevention of crime and disorder;
- The prevention of public nuisance;
- Public safety;
- The protection of children from harm.

- 2.2 The steps the sub-committee may take are to:

- grant the licence subject to the conditions identified in the applicant's operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and any appropriate mandatory conditions.
- exclude from the scope of the licence any of the licensable activities to which the application relates.
- to refuse to specify a person in the licence as the designated premises supervisor;
- reject the application.

### **3 Risk Assessment (if appropriate)**

- 3.1 The matters to which this report relates does not impact on any of the issues identified within the Corporate and Function Risk Registers.

### **4 Background and Full details of the Report**

- 4.1 The premises was formerly the old Natwest bank in Dulverton. Dulverton is a small town in the heart of West Somerset. The property is situated at the top of Bank Square. It has been converted into a studio complex comprising of a broadcasting studio and recording studio and studio theatre. There are both residential properties and business properties within the square.
- 4.2 An application was received from Exmoor Studios (applicant name Mr Stephen Hall) for a premises licence for Exmoor Studios, 6 Bank Square, Dulverton, Somerset. The application was initially submitted to allow the supply of alcohol – both for consumption on the premises and also for consumption off the premises – as well as for provision of films, live music, recorded music and performance of plays. All licensable activities had been applied for between the hours 12:00 to 23:00 Monday to Saturday and 12:00 to 18:00 Sunday. The applicant had also stated that licensable activities would not be taking place after 18:00 on Public Holidays. The studios will be open to the Public from 7:00 to 23:00 Monday to Saturday and 08:00 to 18:00 on Sunday.
- 4.3 Notices advertising the Licence were placed up at the premises and a copy of this was also advertised in the local paper, within 10 working days in accordance with The Licensing Act 2003 (Premises licences and club Premises certificates) Regulations 2005. A copy of this notice was also posted on the Somerset west and Taunton Council Website, with a function available for members of the public to make objections online through the website.
- 4.4 The proposed licensable activities and timings, as per the original application are represented in table form in **Appendix A**.
- 4.5 Within the application, the applicant identified steps that they intend to take promote the licensing objectives, and this is often referred to as being part of the 'operating schedule'. The licensing authority routinely modifies the content of this part of the application in order to form conditions of the licence, should it be granted; conditions which, if breached, result in an offence being committed. In this case, the applicant was given some guidance by the licensing authority in relation to sensible and proportionate steps that they might need to include within the application. Following a meeting between the police Area Licensing Practitioner, Nicola Cooper, and the applicant, an agreed position was reached regarding the wording of three additional conditions to be added to the licence. The conditions agreed as part of the operating schedule are shown in **Appendix B**.

#### Representations

- 4.6 Representations against the application have been received from interested parties within the 28-day consultation period. These are shown in **Appendix C**.
- 4.7 The primary issues raised by objecting/interested parties are:
- \* the potential for noise disturbance to neighbours, particularly into the later hours applied for.
  - \* concerns that a number of local businesses already sell alcohol for off-sales and that the addition of another off-licence seller will add to existing issues. In

particular, concerns raised mention the increase in outdoor seating with the implementing of the covid-19 restrictions and an already noticeable increase in patrons drinking and smoking in Bank Square, as well as “an upward trend in the level of audible and visible street disturbance in recent months”.

#### Representations from Responsible Authorities

- 4.8 No formal objections/representations were raised by responsible authorities during the 28 day consultation period.

#### Mediation

- 4.9 The licensing authority facilitated a mediation between the applicant and interested parties via a virtual Zoom meeting on Wednesday 14th June 2020. The chair of the meeting/mediator was Brad Fear, Licensing Case Manager on behalf of Somerset West and Taunton Council. A number of the interested parties that had made representations attended – three of the four invited, along with the applicant, Mr Hall. Key concerns reiterated by interested parties included the potential for the premises to become a disruptive influence in a quiet area if it becomes a regularly used bar/venue, this included concerns about the impact of noise on neighbouring properties. In discussions that followed, the applicant was able to explain in more detail the intended way in which the business would be operated and offered assurances regarding sound insulation and the responsible running of the bar for performance attendees, users of the recording studio, or individuals rehearsing. In particular, Mr Hall reiterated that existing restraints under his sub-lease and planning permission expressly forbid the property from causing disturbance to neighbours or to operate as a pub-bar. A number of interested parties in attendance (though not all) seemed satisfied with Mr Hall’s assurances and were happy that their concerns had been addressed enough for them to withdraw their objections. These were submitted in writing following the mediation meeting and these formal objection withdrawals can be found under **Appendix D**.

#### Responses to notice of hearing

- 4.10 Notices of hearing were sent out to interested parties by post and also by e-mail (where e-mail addresses were provided) on Friday 9<sup>th</sup> October 2020. The responses we have received to this notice of hearing are shown as **Appendix E**.

#### Relevant Licensing Policy considerations

- 4.11 Section 1.2 of the Authority’s Licensing Policy states: “The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives”. “These four objectives will be the paramount considerations when determining a course of action in relation to the Licensing Authority’s licensing functions. Each objective will be given equal importance”. The four objectives are: the prevention of crime and disorder, public safety, prevention of children from harm and prevention of public nuisance.

#### Conditions

- 4.12 Section 1.5.2 of the Policy states “The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations. Any conditions attached to the licence must relate to the promotion of the Licensing Objectives”.
- 4.13 The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.
- 4.14 The guidance issued under Section 182 of the Licensing Act 2003 states: “(9.38) *All licensing determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from*

*responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. (9.39) The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. (9.40) Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters."*

## **5 Links to Corporate Aims / Priorities**

- 6 The granting of this application would support an existing business within the district, creating an additional source of income. However, considerations must also be made, where necessary, to the Corporate Strategy's commitment (under 'Homes and Communities, point 3) to 'Reduce anti-social behaviour, through working with residents and our partners' and weigh any probable outcomes from granting of this application accordingly.

## **7 Finance / Resource Implications**

- 7.1 None.

## **8 Legal Implications**

- 8.1 The Licensing Sub Committee, when determining this application, must comply with the Licensing Act 2003. It should also have due regard to the Home Office Guidance and the Council's Licensing Policy.
- 8.2 In determining an application for a Premises Licence, any Responsible Authority or other party can make representations in relation to the application.
- 8.3 The Licensing Act 2003 created four licensing objectives and in determining this application, only factors that relate to the licensing objectives can be taken into account. Any representation must relate to the licensing objectives and any conditions added by the Licensing Sub Committee must relate to the promotion of the licensing objectives.

### Human Rights Act 1998

- 8.4 The sub-committee must also have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one's possessions). These provisions require the sub-committee to identify correctly the competing interests, give each appropriate weight in the circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.

## Appeals

- 8.5 If the sub-committee modifies conditions or rejects the application, the applicant may appeal within 21 days of notification of the decision to the Magistrates' Court. Those making relevant representations may appeal if they believe that the licence should not have been granted, or that, when granting the licence, the Licensing Authority ought to have imposed different or additional conditions or excluded a licensable activity. The Magistrates' Court may dismiss the appeal, or substitute its own decision, or send back the case to the Licensing Authority with directions as to how the case is to be dealt with. The Magistrates' Court may make any costs order it thinks fit.

## **9 Environmental Impact Implications (if any)**

- 9.1 None identified.

## **10 Safeguarding and/or Community Safety Implications (if any)**

- 10.1 If the concerns raised by the interested parties are realised, there is a potential for a detrimental impact on community safety.

## **11 Equality and Diversity Implications (if any)**

- 11.1 None identified.

## **12 Social Value Implications (if any)**

- 13 No social value implications were identified.

## **14 Partnership Implications (if any)**

- 15 No partnership implications were identified.

## **16 Health and Wellbeing Implications (if any)**

- 16.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

## **17 Asset Management Implications (if any)**

- 17.1 No asset management implications have been identified.

## **18 Consultation Implications (if any)**

- 18.1 None identified.

## **19 Scrutiny Comments / Recommendation(s) (if any)**

- 19.1 Not applicable.

## **Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**

- **Full Council – No**

**Reporting Frequency :   X   Once only**

### **List of Appendices**

Appendix A	Proposed licence activities and timings (as per application)
Appendix B	Conditions proposed under the operating schedule and by responsible authorities
Appendix C	Representations from interested parties
Appendix D	Representation withdrawals following mediation
Appendix E	Responses to Notice of Hearing

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