

# **Somerset West and Taunton Council**

## **Licensing sub-committee – Thursday 29<sup>th</sup> of September 2022**

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

**This matter is the responsibility of Cllr Andrew Sully**

**Report Author: Brad Fear – Licensing Officer**

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

1.1 Members are asked to consider an application to grant a Premises Licence under the Licensing Act 2003 for 48 East Street, Taunton, Somerset TA1 3NA.

#### **2 Recommendations**

2.1 As a relevant representation has 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 a premises licence subject to conditions identified in the applicant's operating schedule/agreed position (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and any appropriate mandatory conditions.
- Grant a premises licence subject to variations to the licensable activities and or timings proposed in the application, or to propose additional conditions relevant to the four licensing objectives.
- 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 is situated in central Taunton along East Street; a building that was formerly licensed for alcohol and has housed pubs/businesses such as Handsome Harry's and Retro. The previous premises licence for this building lapsed in October 2021, following the dissolving of the company previously named as the licence holders. The building has not been licensed since then.
- 4.2 A completed application and associated paperwork were received from applicant Julian Abraham, on behalf of the Lager Company Ltd, for the granting of a premises licence for 48 East Street, Taunton and this was circulated to relevant responsible authorities on 4<sup>th</sup> August 2022. A period of 28 days consultation commenced from this date with responsible authorities and for interested parties/members of the public – the final date of which fell on Thursday 1<sup>st</sup> September 2022.
- 4.3 A copy of the application can be found attached as **Appendix A**. The applicant is looking to be licensed to sell alcohol for consumption on the premises only, between the hours 08:00-23:30 Sunday to Wednesday, 08:00 – 00:30 Thursday, and 08:00 – 02:30 Friday and Saturday. This includes non-standard timings on New Year's Eve and Christmas Eve, allowing sale of alcohol up to 02:30am. They are also looking to be licensed for live music (12:00 – 23:30 Sunday to Thursday, 12:00-01:00 Friday and Saturday), recorded music and late-night refreshment (08:00-23:30 Sunday to Wednesday, 08:00 – 00:30 Thursday, and 08:00 – 02:30 Friday and Saturday).
- 4.4 Following a visit to the site by the Avon & Somerset Constabulary Area Licensing Practitioner, a number of conditions were proposed to form the basis of an operating schedule/agreed position. The conditions proposed are attached as **Appendix B**.

### Representations

- 4.5 Representations against the application has been received from interested local parties within the 28-day consultation period. The content of their objections is shown in **Appendix C**. The main areas of concern are the possibility of public nuisance/disturbance to local residents/neighbours, caused by late night live/recorded music and drunk customers, as well as concerns around the long hours of trading (i.e. from 8am to late at night) and the impact this will have on anti-social behaviour (for example, urination and vomiting on the public footpath).

### Representations from Responsible Authorities

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

### 4.7 Mediation

The Licensing Authority made contact with the objecting parties following receipt of their representations and also made contact with the applicant to confirm the nature of the concerns raised. This gave us the opportunity to forward on assurances and measures proposed by the applicant to concerned parties, as well as inviting objecting parties to make their own suggestions on amendments to the proposed activities or propose conditions which might address their concerns.

A mediation meeting between the applicant, objecting party and Licensing Officer took place at the Deane House in Taunton on Friday 9<sup>th</sup> September, with the intention of discerning if any compromise could be reached that might fully alleviate the

concerns addressed.

Not all objecting parties were able to attend the mediation meeting, however points for further discussion—expanding upon those raised in their initial objections—were submitted by a couple of objecting parties, to be discussed at mediation. These additional observations are attached as **Appendix D**.

A summary of points discussed at the mediation meeting at the Deane House are attached as **Appendix E**. In this are included some proposed application amendments and assurances that the Mr Abraham has offered in order to address the concerns of the objecting parties. This includes a willingness to amend the proposed terminal hour of licensable hours on Fridays and Saturdays from 2:30am to 1:30am, as well as the addition of a condition that restricts sale of alcohol in the morning (from 8am to 11am) to purchases made with food only. Mr Abraham expressed a desire to work closely with the premises' neighbours to mitigate any potential disturbances caused by licensable activities.

A summary of the points and amendments discussed at mediation were circulated by e-mail to all objecting parties and to the applicant on Monday 12<sup>th</sup> September. At the time of writing this report, we have not received confirmation from any of the objecting parties stating a desire to withdraw their objections, based on the proposals made at the mediation meeting.

#### Responses to notice of hearing

- 4.8 Notices of hearing were sent out by e-mail to the applicant and all objecting parties on Thursday 8<sup>th</sup> September 2022. Those responses to the notice of hearing which have been received at the time of writing this report are attached as **Appendix F**.

#### Relevant Licensing Policy considerations

- 4.9 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

- 4.10 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".
- 4.11 The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.
- 4.12 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**

- 5.1 Under the Licensing Act 2003, the licensing authority has a statutory requirement to ensure that licences are granted with consideration given to the four licensing objectives (public safety, protection of children from harm, prevention of crime and disorder, prevention of public nuisance).

## **6 Finance / Resource Implications**

- 6.1 None.

## **7 Legal Implications**

- 7.1 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.
- 7.2 In determining an application relating to a Premises Licence, any Responsible Authority or other party can make representations in relation to the application.
- 7.3 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

- 7.4 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

- 7.5 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.

**8 Environmental Impact Implications (if any)**

8.1 None identified

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

9.1 None identified.

**10 Equality and Diversity Implications (if any)**

10.1 None identified.

**11 Social Value Implications (if any)**

12 No social value implications were identified.

**13 Partnership Implications (if any)**

14 No partnership implications were identified.

**15 Health and Wellbeing Implications (if any)**

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

**16 Asset Management Implications (if any)**

16.1 No asset management implications have been identified.

**17 Consultation Implications (if any)**

17.1 None identified.

**18 Scrutiny Comments / Recommendation(s) (if any)**

18.1 Not applicable.

**Democratic Path:**

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

**Reporting Frequency :**  **Once only**    **Ad-hoc**    **Quarterly**

**Twice-yearly**    **Annually**

## List of Appendices

Appendix A	Application to grant a premises licence for 48 East Street, Taunton
Appendix B	Agreed position/operating schedule agreed between applicant and Avon & Somerset Constabulary
Appendix C	Objections/representations received from interested parties
Appendix D	Additional observations/comments submitted by interested parties (in advance of mediation meeting)
Appendix E	Summary of points raised at mediation meeting (including proposed amendments to licence application)
Appendix F	Responses to Notice of Hearing (at time of submission of report)

## Contact Officers

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