

REPORT TO: LICENSING (SUB) COMMITTEE

Date of Hearing: 23 May 2024

Report of: Vicky Limb

Type of Application: Licensing Act 2003 application for the grant of a Premises Licence

Premises: 174 Sidwell Street Exeter

Legislation: Licensing Act 2003

Ward of Premises: Newtown St Leonards

Applicant: Damien Sluman

1. What is the report about?

- 1.1 The application attached as Appendix A together with the plan has been received for the grant of a premises licence.
- 1.2 The Premises is situated in the city area of Exeter.

2. Are there any representations?

- 2.1 There have been 2 representations objecting to the Application relating to the Licensing Objectives of the Prevention of Public Nuisance, the Prevention of Crime and Disorder and Public Safety. The representations are from Environmental Health and Devon and Cornwall Constabulary. The representations are listed at Appendix B.
- 2.2 The end date for receiving representations was 22 April 2024.
- 2.3 In response to the objections the Applicant has agreed to conditions and amendments to timings within the Application and these are attached at Appendix C.
- 2.4 Environmental Health concerns are regarding the premises being within the area of the Exeter Public Space Protection Order 2022 (PSPO). The Applicant has specified that there will be a small amount of outside seating in the space directly out the front of the premises for consumption of food and drink purchased from the establishment. An instant breach of the PSPO would occur should the licence be granted as it is currently applied for.
- 2.5 The Applicant agreed to conditions regarding a Pavement Licence, however, these conditions should become part of a Pavement Licence should one be applied for under The Business and Planning Act 2020.
- 2.6 The representation from Devon and Cornwall Constabulary refers to the Premises being within the PSPO and Cumulative Impact Zone therefore the evidential burden is on the Applicant to show there will be no negative impact on the Licensing objective of prevention of Crime and Disorder.

- 2.7 No representations have been received from any other Responsible Authorities.
- 2.8 At the time of writing this report there has been no agreement with Environmental Health over concerns regarding live music until 01:00 and how the Applicant intends to control the noise levels.
They have requested that the building structure is improved to provide sound proofing.

Report details:

- 3.1 The application was advertised on the Premises from 26 March until 22 April 2024 and in the local newspaper on 3 April 2024 in line with above legislation. The Premises advertisement is at Appendix D and the newspaper advertisement is at Appendix E.

4. What are the legal aspects?

- 4.1 The Licensing Sub-Committee are required to have regard to;
- 4.1.1 the representations (including supporting information) presented by all the parties; and
 - 4.1.2 the Official Guidance issued under section 182 of the Licensing Act 2003 revised December 2023 which can be viewed at: [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#); and
 - 4.1.3 the Licensing Authorities Statement of Licensing Policy which can be viewed at <https://exeter.gov.uk/media/1427/statement-of-licensing-policy-2015-2020.pdf>
- 4.2 In determining a licence application the Licensing Sub-Committee will consider each application on its merits.
- 4.3 As the Premises is located in the Cumulative Impact Zone there is a rebuttable presumption any application likely to add to the existing cumulative impact will normally be refused or subject to certain limitations following relevant representations, unless the Applicant can demonstrate in the operating schedule to the application that there will be no negative cumulative on the relevant Licensing Objectives.
- 4.4 The Licensing Sub-Committee, having regard to the representations, must take such of the following steps, if any, as it considers appropriate for the promotion of the Licensing Objectives.
- (a) To grant the licence subject to:
- i. The conditions consistent with the operating schedule modified to the extent that the authority considers appropriate for the promotion of the Licensing Objectives;
 - ii. The mandatory conditions under sections 19, 20 and 21 of the Act.

- (b) To exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) To refuse to specify a person in the licence as the premises supervisor;
- (d) To reject the application.

Section 18 (5) of the Act provides that conditions in the operating schedule are modified if any of them is altered or omitted or any new condition is added.

5. Recommendations:

- 5.1 The Licensing Sub-Committee are required to identify what steps, if any, need to be taken to determine the application.