

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)
<b>Date of Meeting:</b>	25 July 2017
<b>Subject:</b>	Application for Grant of a Premises Licence: Witcombe Cider Festival
<b>Report of:</b>	Licensing and Systems Officer
<b>Director:</b>	Peter Tonge, Head of Community Services
<b>Lead Member:</b>	Cllr J Mason, Lead Member for Clean and Green Environment
<b>Number of Appendices:</b>	6

## **Executive Summary:**

An application has been received for grant of a premises licence under Section 17 of the Licensing Act 2003 in respect of Witcombe Cider Festival, Part Parcel 6568, Painswick Road, Brockworth.

Representations have been received from residents and responsible authorities on grounds of the promotion of the licensing objectives.

## **Recommendation:**

**That the Sub-Committee determine the application.**

## **Reasons for Recommendation:**

The Sub-Committee is required, in accordance with Section 18, of the Licensing Act 2003, to determine the application taking such steps as it considers necessary for the promotion of the licensing objectives.

## **Resource Implications:**

If any party to the hearing were successful in appealing any decision taken by the Sub-Committee at a Magistrates Court, the Licensing Authority may be liable to having costs awarded against them.

## **Legal Implications:**

### Decision Making

Members are required to determine the application with a view to promoting the licensing objectives. Members must only impose those conditions that are deemed to be necessary and proportionate to promote the licensing objectives.

### Rights of Appeal

(i) In accordance with the provisions of Part 1 of Schedule 5 of the Act, where a Licensing Authority rejects in whole or in part, an application for grant or variation of a premises licence,

the applicant may appeal against the decision, to a Magistrates' Court within 21 days of being notified of the decision.

(ii) Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted, or that different or additional conditions should have been imposed on the licence, he may appeal against the decision to the Magistrates' Court within 21 days of being notified of the decision.

#### Human Rights

The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. Decisions on licensing matters are actions of a public authority and must be compatible with Convention rights. Consequently Members of the Panel must be aware of the rights contained in the Convention (particularly those set out below) when making licensing decisions.

In particular Members should conduct the hearing in a fair and proper manner (Article 6: Right to a Fair Trial) and in accordance with the relevant hearing regulations. Members should also consider any decision in light of Article 8: Right to Respect for Private and Family Life, Article 10: Freedom of Expression, Article 14: Prohibition of Discrimination and Article 1 of the First Protocol: Protection of Property.

Rights under the Human Rights convention can only be breached where it is necessary and proportionate to do so.

Other legal implications are as set out elsewhere in the report.

#### **Risk Management Implications:**

None

#### **Performance Management Follow-up:**

The decision of the Sub-Committee and details of rights of appeal will need to be notified to all parties. If the application is granted, a licence will be prepared and issued.

#### **Environmental Implications:**

Noise pollution, waste and recycling.

## **1.0 INTRODUCTION/BACKGROUND**

**1.1** Mr Joseph Pointon has applied for a premises licence under Section 17 of the Licensing Act 2003 for the grant of a premises licence in respect of Witcombe Cider Festival, Part Parcel 6568, Painswick Road, Brockworth. The application was received by the licensing authority on 7 June 2017. The application was advertised as per the requirements of the Licensing Act 2003.

## **2.0 THE APPLICATION**

**2.1** Licensable activities and hours applied for;

Live Music or similar activity	Friday	17:00 to 00:00
	Saturday, Sunday and Monday	10:00 to 00:00
Recorded Music or similar activity	Friday	17:00 to 00:00
	Saturday, Sunday and Monday	10:00 to 00:00
Performance of dance or similar activity	Friday	17:00 to 00:00
	Saturday, Sunday and Monday	10:00 to 00:00
Late Night refreshment	Friday, Saturday, Sunday and Monday	23:00 to 00:00
Supply of Alcohol	Friday	17:00 to 00:00
	Saturday, Sunday and Monday	10:00 to 00:00
Hours premises open to Public	Monday to Friday	16:00 to 00:30
	Saturday and Sunday	09:00 to 00:30

## 2.2 Promotion of the Licensing Objectives

The application states that following steps shall be taken to promote the licensing objectives (*presented as written*):

### 2.2.1 General

A wide range of measures are in place to ensure that the four licensing objectives are promoted at this festival. In addition to the below-listed core conditions, many more measures are contained within the Event Safety Plan, Event Operating Schedule, Health and Safety Plan, and Traffic Management Plan.

*NB. Most of the measures listed below have been drawn from conditions on the existing Licence. Significant changes are highlighted.*

1. Licensing activities can only take place under the authority of the premises licence on a maximum of two occasions each calendar year (that being one event per calendar year, plus one contingency weekend that needs to be used in the event of unforeseen circumstances in relation to the main event) and cannot be carried out on more than **4 (four)** consecutive days on any one occasion, i.e. when the site is open to members of the public. For the avoidance of doubt, this does not include the setting up and taking down the event.
2. A Risk Assessment and Health & Safety Plan shall be submitted to both the Licensing Authority and Police at least 28 days before any event takes place.
3. All Responsible Authorities shall be notified at least 28 days before the licensable

activities can take place under the authority of this premises licence.

4. In addition to the Responsible Authorities, all residents who live along the Painswick Road to the Cross Hands Roundabout, and 500 metres in the opposite direction, shall be given at least 28 days notice of the event.
5. The licensing Authority and other Responsible Authorities shall be afforded full access to the site for the purpose of any inspection.
6. Event road signs shall be provided and erected by the AA **(or equivalent provider)** in the 24-48 hours preceding the event. In addition, the early warning signs (to be placed no less than a week before the event) shall also be supplied and erected by the provider.

### **2.2.2 The Prevention of Crime and Disorder**

1. Non-alcoholic/low-alcohol drinks will be promoted during the event, especially to designated drivers.
2. SIA-badged security staff shall be employed to control the entrances and monitor crowds. Any person whose conduct falls below the required standard or is deemed to be drunk shall be warned by security officers and shall be escorted from the site if necessary.
3. Between the hours of 10:00 and 18:00 on event days, there shall be no less than 10 security officers on site.
4. Between the hours of 18:00 and close on event days, there shall be no less than 20 security officers on site and no less than a further five patrolling the A46.
5. A security officer shall be constantly located outside, or within 25 metres, of the adjacent property known as 'Highways' at all times when the event is open to the public.
6. A security officer shall be constantly located outside, or within 25 metres, of the adjacent property known as 'Green Acres' between the hours of 21:00 and closure of the event.
7. Security officers shall remain on site until it is cleared and a security presence shall be maintained along the A46, between the site and the Cross Hands Roundabout and 500 metres in the Stroud direction, until such time as the area has been fully cleared of those who have attended.
8. The exclusion zones surrounding the private and/or residential properties shall be maintained using Heras fencing (or equivalent).
9. In respect of the safety perimeter or exclusion zone surrounding the property known as 'Highways', the boundary shall be marked and observed at 50 metres in all areas, save for the specific points of the boundary where this would not be possible due to the location of the opposite boundary of the field and, at this, or these Points only, there should be an allowance of no more than 3 metres between the opposite boundary and the perimeter of the exclusion zone.
10. A CCTV camera shall be deployed at the entrance to the site in order to record images of patrons attending the event. Recordings shall be retained for a minimum of two weeks and shall be made available to the statutory authorities on request in the event of problems occurring.
11. A minimum of four buses shall be provided from 21:00 to close on Saturday, Sunday and Monday evenings to supply dedicated transport for festival visitors who are heading home. A minimum of two buses shall operate on Friday evening from 21:00

to close.

12. Stewards shall oversee the transport facilities. They shall encourage customers heading towards the exit to make use of the available buses.
13. Door Supervisors/Security shall travel on the buses with patrons to maintain good.

### **2.2.3 Public Safety**

1. No more than 3,000 patrons shall be permitted at the event at any one time. Additionally, total staff and performers shall not exceed 500.
2. SIA-badged personnel, supported by a team of marshals, shall perform duties including crowd management, parking, marshalling traffic on the site, monitoring entrances and exits, fire prevention, and generally assisting members of the public.
3. A first-aid station shall be present on site throughout the event.
4. Drinks shall not be served in glass containers/glasses.
5. Searches shall be conducted of patrons entering the site upon arrival. Alcoholic drinks/bottles shall not be allowed to enter the site.
6. In order to ensure the safe movement of traffic onto and off the site, the following arrangements shall be in place:
  - a. 'Slow' signs shall be positioned on the A46, 200 metres each side of the gateways that lead onto and off the site.
  - b. The licence holder shall produce a Traffic Management Plan for the event and shall take all reasonable steps to ensure that vehicles waiting to enter the site do not create queues of traffic on the A46.
  - c. Stewards shall be positioned on all vehicular entrances and exits adjacent to the A46 at all times when vehicles are moving onto or off the site.
  - d. The stewards mentioned above must be provided in sufficient numbers to ensure the safe movement of vehicles between the site and the A46.
  - e. The stewards mentioned above must wear high-visibility jackets or vests when on duty.
  - f. A final Event Safety Plan/Event Operating Schedule and the Traffic Management Plan shall be submitted to the Council and Police at least 6 weeks in advance of the event.

### **2.2.4 The Prevention of Public Nuisance**

1. The licence holder shall operate and maintain an exclusion zone as set out by the red dotted line on the attached plan. The zone will be protected by the use of heras fencing and shall be regularly monitored by stewards/security.
2. A fabric covering shall be attached to the heras fencing, so as to provide privacy for neighbouring properties and additional sound attenuation.
3. A mobile phone shall be kept in working order at all times. The mobile number shall be made available to the licensing authority, emergency services and local residents. The phone shall be held by the Event Manager, or a responsible member of staff at all times the event is open to the public.
4. A message asking visitors to show consideration to residents shall be printed on tickets and signs.
5. Music in the open air shall cease by 23:00 at the latest.
6. Music shall only take place outdoors on a maximum of 4 days per calendar year and

in any 21 day period.

7. On days when music is taking place outdoors, Music Noise Levels (MNLs) shall be monitored at such intervals and from such locations as have been agreed in writing with an Environmental Health Officer from Tewkesbury Borough Council.
8. Control limits set at the mixer position shall be adequate to ensure that a maximum MNL of 65dB LAeq (15 minutes) measured at one metre from the facade of noise sensitive properties shall be achieved between the hours of 09:00 to 23:00.
9. In the particular case of music taking place outdoors on the site, and occurring between 23:00 and midnight, such source sounds must be virtually not audible or discernible. 'Virtually not audible or discernible' shall be interpreted as the noise being barely audible and discernible at the facade of any noise-sensitive dwelling and, as a consequence, would be inaudible within that dwelling. This will be determined by an Environmental Health Officer employed by, or authorised by, the Licensing Authority.

#### **2.2.5 The Protection of Children from Harm**

1. The 'Challenge 25' scheme shall be adopted, so that any customer attempting to purchase alcohol who appears to be under the age of 25 shall be asked for an accredited photographic proof-of-age (e.g. passport, photo driving licence, or a PASS-approved card) and a sale shall not be made unless this evidence is produced.
2. Marshals and security staff shall be instructed to be on the look-out, during their patrols, for any underage persons consuming alcohol, and shall confiscate any alcohol from persons under the age of 18.
3. Children and young persons (under 18) shall not be permitted entry unless accompanied by an adult.
4. A wide range of soft drinks shall be on sale at various locations around the site.

**2.3** The application is shown in full at **Appendix A**. The plan of the premises is shown as **Appendix B** and the cover letter is shown as **Appendix C**.

### **3.0 CONSULTATION**

#### **3.1 Responsible Authorities**

**3.1.1** Three responsible authorities made representations: Gloucestershire Constabulary, Tewkesbury Borough Council Environmental Health and Gloucestershire Fire and Rescue Service. These representations are shown at **Appendix D**

#### **3.2 Other Persons**

**3.2.1** 34 valid representations have been received from members of the public; 13 representations support the application and 21 representations object to the application. These representations are shown at **Appendix E**.

### **4.0 ADDITIONAL INFORMATION**

- 4.1** This premises benefits from an existing premises licence which was granted on 19 March 2013. This licence was reviewed on 22 April 2014 following a review application instigated by Gloucestershire Constabulary. The current premises licence is shown at **Appendix F**. Whatever decision the Sub-Committee makes will have no bearing on the current premises licence already in existence.
- 5.0 DECISION**
- 5.1** The Sub-Committee is obliged under the Licensing Act 2003 to determine this application with a view to promoting the licensing objectives which are;
- (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.
- 5.2** In making its decision, the Sub-Committee is also obliged to have regard to the Statutory Guidance and the Council's own Licensing Policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.
- 5.3** The Sub-Committee can:
- (a) grant the application as requested;
  - (b) modify the conditions and/or timings of the licensable activities, by altering or omitting or adding to them; or
  - (c) reject the whole or part of the application.
- 5.4** If the application is granted whole or in part, relevant mandatory conditions will be included in the premises licence under Section 19 and 19A of the Licensing Act 2003.
- 6.0 RELEVANT COUNCIL POLICIES/STRATEGIES**
- 6.1** The Council's Statement of Licensing Policy.
- 7.0 RELEVANT GOVERNMENT POLICIES**
- 7.1** Statutory Guidance under Section 182 of the Licensing Act 2003.
- 8.0 RESOURCE IMPLICATIONS (Human/Property)**
- 8.1** None
- 9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 9.1** None
- 10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 10.1** No adverse impacts have been identified  
The Legal Implications section refers to Human Rights implications
- 11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

11.1 None

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<b>Background Papers:</b>	Guidance Issued Under Section 182 of the Licensing Act 2003 Tewkesbury Borough Council Statement of Licensing Policy
<b>Contact Officer:</b>	Licensing and Systems Officer 01684 272044 <a href="mailto:licensing@tewkesbury.gov.uk">licensing@tewkesbury.gov.uk</a>
<b>Appendices:</b>	Appendix A - Full Application Appendix B - Premises Plan Appendix C - Cover Letter Appendix D - Representations from responsible authorities Appendix E - Representations from members of the public Appendix F - Current premises licence