



LICENSING SUB-COMMITTEE

Date: 9 September 2020

Report of: Corporate Director Of Place and Community

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SUBJECT: APPLICATION FOR PREMISES LICENCE IN RESPECT OF EDEN TEA ROOM AND GALLERIES, COURSE LANE, NEWBURGH WN8 7UB

Borough wide interest

1.0 PURPOSE OF REPORT

1.1 To consider an application under the Licensing Act 2003 (the Act) for a Premises Licence in respect of Eden Tea Room and Galleries, Course Lane, Newburgh.

2.0 RECOMMENDATIONS

2.1 The Sub-Committee's instructions are requested.

3.0 PREMISES INFORMATION

3.1 Address of Premises: Eden Tea Room and Galleries
Course Lane
Newburgh WN8 7UB

3.2 Premises Licence Holder: Mathew Parsons

4.0 THE APPLICATION

4.1 On 4 March 2020 an application for a Premises Licence was received, a copy of which is attached as Appendix 1 to this report.

4.2 A location plan is attached at Appendix 2 to this report.

4.3 There was an initial representation received against the application by the Council's Environmental Protection Officers which requested conditions. These conditions were agreed by the applicant. Copy attached as Appendix 3 to this report.

4.4 There have been 75 relevant representation received against the application that have been received from local residents. Copies are attached as Appendix 4 to 13 to this report.

5.0 BACKGROUND

- 5.1 The initial application was received on 4 March 2020. The applicant applied for the sale of alcohol only for Monday to Thursday 8am to 11pm and Friday and Saturday 8am to 2am. The application was accepted and the applicant was advised that under the Act it was a requirement, as part of the application procedure, to display a notice of the application on the premises where it could be seen by public passing the premises and must remain displayed for 28 days. The applicant was also advised that the application was to be advertised in the locals press. The applicant advised that all advertising had been completed and the advertisement was to be displayed in the Champion newspaper.
- 5.2 On 25 March 2020 when the applicant requested a change to the application. He requested the addition of Late Night Refreshment, Recorded Music and Live Music on Friday and Saturdays from 8am to 2am (the following day). He was advised that the original application would need to be withdrawn and a new application submitted. The new application was received and the same procedure followed.
- 5.3 On 2 April 2020 Lancashire Constabulary provide a response stating they had no representation regarding the application. On 27 April 2020, the Council's Environmental Protection team provided a representation advising that if a number of conditions were accepted by the applicant they would withdraw the representation, the representation is attached as Appendix 3. The applicant accepted the conditions. On 30 April 2020, the Planning Department provided a response (this was one day after the consultation period ended). They advised that they would not have objected to the application but advised of the planning restriction against the premises, which is Monday to Saturday 8am to 6pm and Sunday 9am to 6pm. No public objections were received at that time.
- 5.4 The Act dictates that if no representations are received regarding an application then Licensing Authority has no alternative but to grant the licence. Therefore the application was referred to Licensing Sub Committee to determine the application with the conditions that the applicant accepted. The application was granted on these terms.
- 5.5 Member should be aware that a Planning application has been submitted for the premises to mirror the licence timings. Under the Planning Regulations, all residents located within the immediate vicinity of the premise must be notified. This notification also informed residents that a Premise Licence had been granted by the Licensing Authority. A number of complaints from local residents were subsequently received advising that they felt the application notice required under the Licensing Act 2003 was either not displayed or not clearly displayed.
- 5.6 After investigation by Licensing Officers, it was concluded that the applicant had failed to display the notice on the premises in accordance with the relevant legislation and therefore the consultation period for the application had to be re-started. The 28 day consultation period started again. The new notice displayed

indicated the timings that were requested by the Environmental Protection Officer and agreed by the applicant, a copy is attached as Appendix 5 to this report.

6.0 RELEVANT REPRESENTATION – ENVIRONMENTAL PROTECTION

6.1 The representation from the Council's Environmental Protection team raised concerns regarding noise nuisance. A number of conditions were requested to alleviate the concerns of which the applicant accepted. Copy attached as Appendix 3 to this report.

7.0 RELEVANT REPRESENTATION – PUBLIC

7.1 The representations from the Public (Appendix 4 to 13) raise concerns regarding noise and disturbance, public nuisance and disorder issues and public safety including children's safety due to the busy road through the village. The representations are made under the Prevention of Public Nuisance, Crime and Disorder, Public Safety and Protection of Children from Harm Licensing Objectives.

8.0 LICENSING POLICY AND LEGAL CONSIDERATIONS

8.1 The Local Authority must have regard to the provisions of the Licensing Act 2003. In addition Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under Section 182 of the Act.

8.2 As Members will be aware, the four licensing objectives are as follows:

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- The Protection of Children from Harm

8.3 The Act provides that before determining the application, the Licensing Authority must hold a hearing to consider it and relevant representations.

8.4 The Licensing Authority in determining the application, having had regard to the application and any representations, may take the following steps if it considers it necessary for the promotion of the licensing objective:

- (i) Add conditions in respect of the New Application
- (ii) Refuse a licensable activity from the New Application

8.5 In deciding which of the powers to use it is expected that the Licensing Authority should, as far as possible, seek to establish the causes of the concerns that the representations identify. Any action the Committee may wish to take should generally be directed at these causes and should always be no more than an appropriate response in the cause of promoting the licensing objectives.

8.6 In particular, Members' attention is drawn to the following sections of the Policy, which must be read in conjunction with this report:

Section 4	The Prevention of Crime & Disorder
Section 4	Public Safety
Section 4	Prevention of Public Nuisance
Section 4	Protection of Children from Harm

9.0 HUMAN RIGHTS ACT IMPLICATIONS

9.1 The Human Rights Act 1988 makes it unlawful for a Local Authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention rights;

Article 6

that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;

Article 8

that everyone has the right to respect for his home and family life;

Article 1 of the First Protocol

that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

10.0 SUSTAINABILITY IMPLICATIONS

10.1 The Sub-Committee decision has the potential to impact upon the local community affected by the operation of the business. However, the Council's Licensing Policy (required under the Licensing Act 2003), which underpins the Committee's decision, impacts upon many areas within the Community.

11.0 FINANCIAL AND RESOURCE IMPLICATIONS

11.1 No additional financial or other resources are required.

12.0 RISK ASSESSMENT

12.1 The Council has a legal duty to administer the Licensing Act 2003 and is under a legal duty to determine the matter contained in this report. A failure to determine this matter would result in potential legal challenge.

13.0 HEALTH AND WELLBEING IMPLICATIONS

13.1 There are no health and wellbeing implications arising from this report.

Background Documents

There are no background documents (as defined in Section 100 D (5) of the Local Government Act 1972) have been relied on to a material extent in the preparation of this report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Premises Licence application	(Appendix 1)
Location plan	(Appendix 2)
Environmental Protection Representation (agreed by applicant)	(Appendix 3)
Public Representations	(Appendix 4, to 13)
Final Notice displayed at the premises	(Appendix 14)