

TITLE: APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE - LICENSING ACT 2003

Committee: Licensing Sub-Committee

Date: 10 January 2019

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[T174]

1.0 PURPOSE/SUMMARY OF REPORT

1.1 To determine an application for the grant of a new premises licence in respect of The Hereward, 45 Market Street, Ely, Cambridgeshire, CB7 4LZ.

2.0 RECOMMENDATION(S)

2.1 That Members consider the content of this report, and all evidence provided during the hearing, and determine the application in accordance with the options contained in paragraph 4.2 of this report.

3.0 BACKGROUND/OPTIONS

3.1 Premises History

The premises have been licensed since the Licensing Act 2003 commenced in 2005. The current licence is held by the applicant for the new premises licence, Stonegate Pub Company Limited. The existing licence (**Appendix 1**) permits the following:

Licensable Activity	Proposed Hours
Sale by retail of alcohol for consumption on and off the premises	11:00 to 00:00 Sunday to Wednesday
Indoor sporting events	
Live music	
Performance of dance	
Sale by retail of alcohol for consumption on and off the premises	11:00 to 01:00 Thursday to Saturday
Indoor sporting events	
Live music	
Performance of dance	
Exhibition of film and recorded music	07:00 to 00:00 Sunday to Wednesday
	07:00 to 01:00 Thursday to Saturday

Late night refreshment	23:00 to 00:00 Sunday to Wednesday
	23:00 to 01:00 Thursday to Saturday

Opening Hours	07:00 to 00:30 Sunday to Wednesday
	07:00 to 01:30 Thursday to Saturday

All activities to be permitted from the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day, and an additional hour to the terminal hour on the day that British Summertime commences.

3.2 The venue is one of the main entertainment venues in the city, and is very popular at all times of the day and night, appealing to a wide range of ages at the different times they trade. Records show that their compliance is very good.

3.3 The premises has planning permission with the following condition:

The use hereby permitted shall not be open to customers outside the following times unless otherwise agreed in writing by the Local Planning Authority: 11am to 00:30 Mondays to Wednesdays, 11am to 01:30 hours Thursday to Saturday, and 11am to 00:30 hours on Sundays.

Details of new application

3.4 On 23 December 2018 Stonegate Pub Company Limited applied for a Premises Licence under section 17 of the Licensing Act 2003 for The Hereward, 45 Market Street, Ely, Cambridgeshire, CB7 4LZ hire, CB6 2FE (**Appendix 2**). The application was served on the responsible authorities and advertised in accordance with the regulations of the Licensing Act 2003.

3.5 The applicant has applied for a licence that requests the following:

Licensable Activity	Proposed Hours
Sale by retail of alcohol for consumption on and off the premises	9:00 to 00:00 Monday to Wednesday
Indoor sporting events	
Live music	
Performance of dance	
Sale by retail of alcohol for consumption on and off the premises	9:00 to 03:00 Friday and Saturday
Indoor sporting events	
Live music	
Performance of dance	

Sale by retail of alcohol for consumption on and off the premises	09:00 to 01:00 Thursday and Sunday
Indoor sporting events	
Live music	
Performance of dance	
Exhibition of films and recorded music	07:00 to 00:00 Monday to Wednesday
	07:00 to 03:00 Friday and Saturday
	07:00 to 01:00 Thursday and Sunday
Late night refreshment	23:00 to 00:00 Monday to Wednesday
	23:00 to 03:00 Friday and Saturday
	23:00 to 01:00 Thursday and Sunday

Opening Hours	07:00 to 00:30 Monday to Wednesday
	07:00 to 03:30 Friday and Saturday
	07:00 to 01:30 Thursday and Sunday

All activities to be permitted from the end of permitted hours on New Year's Eve through to the start of permitted hours on New Year's Day, and an additional hour to the terminal hour on the day that British Summertime commences.

- 3.6 For the sake of clarity, the applicant is seeking to open two hours later on Friday and Saturday evenings, and one hour later on Sunday evenings, and they are looking to commence alcohol sales two hours earlier in the morning along with associated entertainment than their current licence permits.
- 3.7 The applicant has offered steps that they are willing to take to promote the licensing objectives. These can be found in section M of **Appendix 2** to this report. These steps were submitted following conversations with the Police prior to submitting the application.
- 3.8 The premises designated premises supervisor submitted a Temporary Event Notice to open until 02:00am on the morning of Saturday 15th and Sunday 16th December. No complaints were received following this event period.

Relevant Representations

- 3.8 During the consultation period the Licensing Authority in its role as a Responsible Authority under the Act submitted a valid representation (**Appendix 3**). Environmental Health also submitted a valid representation

(**Appendix 4**). No other representations were received from any other responsible authorities.

3.9 A total of four valid representations were received from other persons permitted by the Licensing Act 2003 to submit representations (**Appendix 5**).

3.10 At the time of writing this report no agreement had been reached between those parties submitting representations and the applicant.

4.0 CONCLUSIONS/DETERMINATION OF APPLICATION

4.1 Members are obliged to determine this application with a view to promoting the licensing objectives which are:

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

In making their decision Members are also obliged to have regard to the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. Should Members depart from either they must specify their reasons for doing so. Members must also take into account the information contained within this report, and the evidence submitted, both written (if submission of such information is agreed by all parties at the hearing) and orally during the hearing.

4.2 Members can determine the premises licence application as follows:

- a) to grant the premises licence subject to:
 - (i) the conditions that are consistent with the operating schedule accompanying the application modified to such extent as Members consider necessary for the promotion of the licensing objectives; and
 - (ii) any mandatory conditions that must be included in the licence;
- (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; or
- (d) to reject the application.

4.3 Members are asked to note that they may not modify or impose new conditions, or reject the whole or part of the application merely because they consider it desirable to do so. It must actually be **appropriate** to do so in order to promote

the licensing objectives, and any such step must relate to the actual representations made.

4.4 In determining the premises licence application, Members must provide the reasons for their decisions, and consider their responsibilities under the Human Rights Act 1998, when balancing the rights of the applicant and the rights on those who may be affected.

4.5 Any decision taken must be appropriate and proportionate to the objective being pursued. In particular the following should be taken into consideration:

Article 6 – the right to a fair hearing

Article 8 – respect for private and family life

Article 1, First protocol – peaceful enjoyment of possessions (which can include the possession of a licence)

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 The cost of convening a Licensing Sub-Committee to determine an application is covered by the fees paid by licence applicants.

5.2 Should there be a decision to modify the premises operating schedule, exclude a licensable activity from the scope of the licence, refusal to specify a person as the designated premises supervisor or reject the application, the applicant can appeal to the Magistrates' Court. There will be costs associated with this process. The right of appeal is 21 days from the date of notification of the decision.

5.3 Any party who made relevant representations in relation to the application may appeal the decision. There will be costs associated with this process. The right of appeal is 21 days from the date of notification of the decision.

5.4 Equality Impact Assessment (INRA) is not required, as this does not relate to a service provided by the Council or a decision on a change of policy, but an application for a licence by an individual/ organisation.

6.0 APPENDICES

6.1 Appendix 1 Existing premises licence

6.2 Appendix 2 New application paperwork

6.3 Appendix 3 Representation from Stewart Broome, Senior Licensing Officer.

6.4 Appendix 4 Representation from Karen See, Senior Environmental Health Officer

6.5 Appendix 5 Representations from other persons

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Licensing Act 2003	Room SF208 The Grange Ely	Lin Bagwell Licensing Officer 01353 616477 lin.bagwell@eastcambs.gov.uk
Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, March 2018		
ECDC Statement of Licensing Policy 2016		