

Representation following the Application for a New Premises Licence at Kiki Lounge, 29 Princes Street, Yeovil, BA20 1EG

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Purpose of the Report

To inform members that an application has been received from Mr Jordan Frost, for a premises licence to be granted under the Licensing Act 2003 at Kiki Lounge, 29 Princes Street, Yeovil, BA20 1EG.

Recommendation

To determine the granting of the premises licence in accordance with the options detailed later in the report.

Background

The Council is the authority responsible for the issue of Premises Licences issued under Section 18 of the Licensing Act 2003.

The Licensing Manager has delegated authority to determine a Premises Licence application, subject to no objections being received from a Responsible Authority or “Other Persons”. In this case, relevant representations were received from two Responsible Authorities – (both of which have subsequently been withdrawn) and Two “Other Persons” it is therefore necessary to convene a hearing to determine the application.

Licensing Objectives

The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The licensing objectives are to be considered paramount and the Council has a duty to promote them in its decision making process. An application will not be refused in whole or part or any conditions attached except those offered by the applicant or required by law except where appropriate to promote the licensing objectives.

Application

A copy of the application form is enclosed with the agenda; it does not however include a copy of the plan of the premises, which is available for inspection at the Council offices, Brympton Way, Yeovil.

The details of the application are summarised as follows:

- Applicant: Mr Jordan Frost

Licensable activities applied for:

Live Music (E) Indoors Only

| Day | Start Time | Finish Time |
|------------|-------------------|--------------------|
| Friday | 21:00 | 00:00 |
| Saturday | 21:00 | 00:00 |
| Sunday | 14:00 | 00:00 |

Seasonal Variations: None

Non-Standard Timings: None

Please note: This activity has now been withdrawn; however due to amendments to the Licensing Act 2003, live amplified music could still take place at the premises from 08:00 to 23:00 providing the premises are open for the supply of alcohol 'On' the premises AND it takes place before an audience of no more than 500. Further, any conditions added on a determination of an application for a premises licence which relate to live music remain in place, but are suspended between the hours of 08.00 and 23.00 on the same day.

Late Night Refreshment (I) Indoors Only

| Day | Start Time | Finish Time |
|------------|-------------------|--------------------|
| Friday | 23:00 | 00:00 |
| Saturday | 00:01 | 01:00 |
| Saturday | 23:00 | 00:00 |
| Sunday | 00:01 | 01:00 |

Seasonal Variations: None

Non-Standard Timings: None

Supply of Alcohol (J) – Consumption 'On' The Premises ONLY

| Day | Start Time | Finish Time |
|------------|-------------------|--------------------|
| Monday | 11:00 | 23:00 |
| Tuesday | 11:00 | 23:00 |
| Wednesday | 11:00 | 23:00 |
| Thursday | 11:00 | 23:00 |
| Friday | 11:00 | 00:00 |
| Saturday | 00:01 | 01:00 |
| Saturday | 11:00 | 00:00 |
| Sunday | 00:01 | 01:00 |
| Sunday | 11:00 | 23:00 |

Seasonal Variations: None

Non-Standard Timings: None

Please note: the proposed hours for the supply of alcohol have now been amended as follows:

| Day | Start Time | Finish Time |
|------------|-------------------|--------------------|
| Monday | 11:00 | 23:30 |
| Tuesday | 11:00 | 23:30 |
| Wednesday | 11:00 | 23:30 |
| Thursday | 11:00 | 23:30 |
| Friday | 11:00 | 23:30 |
| Saturday | 11:00 | 23:30 |
| Sunday | 11:00 | 23:30 |

Seasonal Variations: None
Non-Standard Timings: None

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children. **(K)**

None.

Hours premises open to the public (L) – Not a licensable activity, but shown as part of the application.

| Day | Start Time | Finish Time |
|------------|-------------------|--------------------|
| Monday | 11:00 | 23:30 |
| Tuesday | 11:00 | 23:30 |
| Wednesday | 11:00 | 23:30 |
| Thursday | 11:00 | 23:30 |
| Friday | 11:00 | 00:00 |
| Saturday | 00:01 | 01:30 |
| Saturday | 11:00 | 00:00 |
| Sunday | 00:01 | 01:30 |
| Sunday | 11:00 | 22:30 |

Seasonal Variations: None
Non-Standard Timings: None

Please note: the proposed hours open to the public have now been amended as follows:

| Day | Start Time | Finish Time |
|------------|-------------------|--------------------|
| Monday | 11:00 | 00:01 |
| Tuesday | 11:00 | 00:01 |
| Wednesday | 11:00 | 00:01 |
| Thursday | 11:00 | 00:01 |
| Friday | 11:00 | 00:01 |
| Saturday | 11:00 | 00:01 |
| Sunday | 11:00 | 00:01 |

Seasonal Variations: None
Non-Standard Timings: None

Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (page 18) of the application form and the additional document; (these where appropriate, will become conditions of the licence, subject to the licence being granted, and are in addition to any further conditions imposed by the Licensing Committee).

Evidence that advertising/notice requirements have been complied with:

- The applicant has confirmed that notice was displayed at the premises for the requisite period.
- A further notice was placed in the Western Gazette newspaper on 07 March 2019 of which we have a copy.

Representations – Responsible Authorities

- A representation was received from Mr Brett Warren on behalf of the South Somerset District Council – this has been withdrawn as there will not be any live music after 11pm and kitchen [odour] extraction is not required, as hot food will not be served at the premises.
- A representation was received from Mrs Nicola King on behalf of the Chief of Police for Avon and Somerset Constabulary – this has been withdrawn as the applicant has amended his operating schedule to add the following additional steps to promote the Licensing Objectives:
 - ❖ The hours requested for premise open to the public to be reduced to 1100-0001 Monday to Sunday.
 - ❖ The hours requested for the sale of alcohol to be reduced to 1100-2330 Monday to Sunday.
 - ❖ Live music provision to be removed from the application at the request of the applicant.
 - ❖ CCTV equipment shall be installed, operated and maintained at the premises in accordance with the current version of Avon & Somerset's policy "Surveillance Camera Systems within Licensed Premise Operational Requirement Guidance" as endorsed by the Licensing Authority. The CCTV shall be maintained in working order and continually record when licensable activity takes place.
 - ❖ Recordings relating to the CCTV cameras shall be kept for a minimum of 31 days and made available to Avon and Somerset Constabulary and Licensing Authority in accordance with the Data Protection Act 1998. The Premises Licence Holder shall ensure that a staff policy and sufficient training are put in place to provide that all staff are familiar with the operation of the CCTV equipment and that members of trained staff at the premises during operating hours are able to provide viewable copies upon request to the Police or authorised local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 1998.
 - ❖ The Premises Licence Holder shall operate Challenge 25 and ensure that a bound refusals register is available at the premises and measures are in place so that it is completed with details of all alcohol sales which are refused for any reason. Measures shall also be in place for the Designated Premises Supervisor to review

the refusals register. The refusals register shall be made available to Responsible Authorities upon request.

- ❖ The Premises Licence Holder shall ensure that measures are in place so that all staff involved in the sale of alcohol are fully trained to ensure that no person who is knowingly drunk or disorderly or appears to be under the age of 18 is served with intoxicating liquor. The training shall also include the requirement for persons who appear to be under 25 to be asked for photographic evidence of age by way of passport, drivers licence, PASS card or a Government approved scheme. The training records shall be retained and made available to the Licensing Authority or Police Officers upon request.
- ❖ The Premises Licence Holder shall ensure that a written or electronic incident log is kept at the premises and measures shall be in place to record all incidents of crime and disorder at the premises. Measures shall also be in place for the log to be reviewed by the Premise Licence Holder in association with the Designated Premises Supervisor. The log shall be made available to the Licensing Authority or Police Officer upon request.
- ❖ SIA Door Supervisors shall be employed on Friday and Saturday from 2100 until closure of the premise and for ½ hour until the immediate area outside of the premise has been cleared. Door Supervisors will also be employed for all bank holidays when those bank holidays do not fall on a Friday or Saturday. This will include New Year's Eve. The ratio of Door Supervisors shall be set at 1:75.
- ❖ The premises licence holder will ensure that where door supervisors are employed at the premises, they enter in a register kept for the purpose their full name, badge number (including expiry date) and time they began their duty and the time they completed their duty, immediately after doing so. This register is to be kept at the premises at all times and should be so maintained as to enable a police or licensing officer to establish the particulars of all door supervisors engaged at the premises during the period of not less than 21 days proper to the request and shall be open to inspections by officers of the licensing authority or police officers upon request.
 - b. Any female customer who needs to be searched will be searched by a female door supervisor or a female member of staff.
- ❖ The premise licence holder will co-operate with the responsible authorities in relation to dealing with the issues of drugs on the premises. A drug policy will be drawn up and agreed with the Police. This Policy to be reviewed 6 monthly.
- ❖ A Smoking Policy to be drawn up and agreed with the Police and Licensing Authority. This policy shall be reviewed 6 monthly by the Premise Licence Holder.
- ❖ The premise shall be an active member of the Yeovil Pubwatch Scheme or any other similar initiative that operates within Yeovil.
- ❖ The applicant will have a Safeguarding policy in place which shall be to the satisfaction of Avon and Somerset Constabulary and reviewed 6 monthly by the PLH.
- ❖ All drinks to be served in polycarbonate or toughened/shatterproof glasses.
- ❖ The premise licence holder shall ensure that all glasses or bottles are removed from persons leaving the venue.

- ❖ The premise licence holder shall ensure than no drinks are taken into the smoking area.
- ❖ A personal licence holder to be on the premise at all times when licensable activity is taking place.
- ❖ No persons under the age of 18 shall not be allowed to remain on the premise after 2100hrs.
- ❖ There shall be no events to take place at the premise for those persons under the age of 18.
- ❖ There shall be no tables and chairs outside of the premise.

Representations – Other Persons

Two Representations were received from ‘Other Parties’, which relate to the potential for noise.

Relevant Observations

None

Further Information

Mr Frost will need to apply for planning permission to change the use of the premises however the premises licence application and planning are dealt with separately. Should the Licence be granted, it can't be used until the planning matter is resolved.

In determining the application with a view to promoting the licensing objectives in the overall interests of the community, the Committee must have regard to and give appropriate weight to the following considerations:

- Any relevant and valid representation (including supporting documentation received)
- The Latest Guidance issued under s182 of the Act
- The Statement of Licensing Policy issued in January 2014.
- The steps appropriate to promote the licensing objectives as set out in s18(4)
- Human Rights considerations in particular Article 6, Article 8 and Article 1 of Protocol 1

Options

The options available to the committee are stated at section 18 of the Licensing Act 2003 and are as follows:

- Grant the licence subject to such conditions which are consistent with the operating schedule modified to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives and any condition, which must under s19-21, be included in the licence s18(4)(a)(i)(ii) together with the current mandatory conditions.

- Exclude from the scope of the licence any of the licensable activities to which the application relates s18(4)(b)
- Refuse to specify a person in the licence as the premises supervisor s18(4)(c)
- Reject the application s18(4)(d).

Right of Appeal

Schedule 5 of the Licensing Act 2003 sets out the rights and procedures for making appeals against the decision of the Licensing Authority:

Where the Licensing Authority has rejected an application for a premises licence, the applicant may appeal to the Magistrates' Court against the decision to reject.

Where the Licensing Authority has granted the licence, the holder of the licence may appeal to the Magistrates Court against any decision to impose conditions on the licence that are consistent with the operating schedule or imposed where having regard to any relevant representations, are considered appropriate to promote the licensing objectives.

Where the Licensing Authority has granted the licence subject to the exclusion of any of the licensable activities or refused to specify a person as the premises supervisor, the holder of the licence may appeal to the Magistrates Court against the decision.

Where a person who made a relevant representation desires to contend that the licence ought not to have been granted, or that on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or ought to have taken a step to exclude a licensable activity or refused to have specified a person as the premises supervisor, he may appeal against the decision to the Magistrates Court.

The appellant commences the appeal by giving a notice of appeal to the designated officer for the Magistrates' court within 21 days beginning with the day on which the applicant was notified by the Licensing Authority of the decision appealed against.

On determining the appeal, the court may,

- Dismiss the appeal
- Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

and may make such order as to costs as it thinks fit.

Background Papers

Licensing Act 2003

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

SI 2005 No. 44 Licensing Act 2003 (Hearings) (Regulations) 2005

<http://www.legislation.gov.uk/uksi/2005/44/contents/made?text=%22licensing%20act%202003%22%20AND%20%22hearings%20regulations%22#match-1>

SI 2005 No. 42 Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

<http://www.legislation.gov.uk/uksi/2005/42/contents/made>

SI 2010 No.860 Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

<http://www.legislation.gov.uk/uksi/2010/860/contents/made>

The Latest Guidance issued under section 182 of the Licensing Act 2003.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

The Statement of Licensing Policy for South Somerset District Council January 2014.

https://www.southsomerset.gov.uk/media/1862/licensing_policy_2014.pdf

The Live Music Act 2012 (“2012 Act”) <http://www.legislation.gov.uk/ukpga/2012/2>

The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

<http://www.legislation.gov.uk/uksi/2013/1578/contents/made>

The Legislative Reform (Entertainment Licensing) Order 2014 (“2014”)

<http://www.legislation.gov.uk/uksi/2014/3253/introduction/made>

The Deregulation Act 2015

<http://www.legislation.gov.uk/ukpga/2015/20/section/76/enacted>