

Representation following the Application for a New Premises Licence at Number One Bruton, 1, High Street, Bruton, BA10 0AB

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Purpose of the Report

To inform members that an application has been received from Number One Bruton LLP, for a premises licence to be granted under the Licensing Act 2003 at Number One Bruton, 1, High Street, Bruton, BA10 0AB.

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 Lead Specialist – Environmental Health, Service Delivery, 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 seven “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: Number One Bruton LLP

Licensable activities applied for:

Films (B) Indoors Only

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	Midnight
Friday	10:00	Midnight
Saturday	00:01	01:00
Saturday	10:00	Midnight
Sunday	00:01	01:00
Sunday	10:00	Midnight

Seasonal Variations: None

Non-Standard Timings: 24 hours to hotel residents and bona fide guests (e.g. the playing of films in hotel bedrooms)

Recorded Music (F) Indoors Only

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	Midnight
Friday	10:00	Midnight
Saturday	00:01	01:00
Saturday	10:00	Midnight
Sunday	00:01	01:00
Sunday	10:00	Midnight

Seasonal Variations: None

Non-Standard Timings: None

Late Night Refreshment (I) Indoors Only

Day	Start Time	Finish Time
Monday	23:00	Midnight
Tuesday	23:00	Midnight
Wednesday	23:00	Midnight
Thursday	23:00	Midnight
Friday	23:00	Midnight
Saturday	00:01	01:00
Saturday	23:00	Midnight
Sunday	00:01	01:00
Sunday	23:00	Midnight

Seasonal Variations: None

Non-Standard Timings: 24 hours for hotel residents and bona fide guests

Supply of Alcohol (J) – Consumption ‘On’ and ‘Off’ the Premises

Day	Start Time	Finish Time
Monday	10:00	Midnight
Tuesday	10:00	Midnight
Wednesday	10:00	Midnight
Thursday	10:00	Midnight
Friday	10:00	Midnight
Saturday	00:01	01:00
Saturday	10:00	Midnight
Sunday	00:01	01:00
Sunday	10:00	Midnight

Seasonal Variations: For the avoidance of doubt, Off Sales apply only to service at the external spaces

Non-Standard Timings: 24 hours for hotel residents and bona fide guests

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	07:00	Midnight
Tuesday	07:00	Midnight
Wednesday	07:00	Midnight
Thursday	07:00	Midnight
Friday	07:00	Midnight
Saturday	00:01	01:00
Saturday	07:00	Midnight
Sunday	00:01	01:00
Sunday	07:00	Midnight

Seasonal Variations: None

Non-Standard Timings: 24 Hours to residents of the hotel and their bona fide guests.

Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (page 17) of the application form; (these where appropriate, will become conditions of the licence, subject to the licence being granted, and are in addition to any further conditions that may be imposed by the Licensing Committee).

Evidence that advertising/notice requirements have been complied with:

- The solicitor for 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 01 August 2019 of which we have a copy.

Representations – Responsible Authorities

None

Representations – Other Persons

Seven representations were received from ‘Other Parties’, which mainly relate to the potential for noise. At the time of writing, one representation had been withdrawn. Another person had written in with concerns, but had written in general terms on the potential of the grant of the application to affect residents but had not given any reasons on how he or they may be affected; this person has been written to and advised that his letter is not regarded as a relevant representation, however the remaining six representations (if not also withdrawn) would be taken into consideration at the hearing to determine the application.

Relevant Observations

One of the persons making representations has referred to a possible planning issue, however these types of issues need to be addressed through the planning processes.

Due to changes which have amended the Licensing Act 2003, live music is not licensable in the following circumstances:

- a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
- a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500¹
- a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that does not have a licence, provided that the audience does not exceed 500.

A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit²

It is therefore possible for live music to take place at the premises.

Further Information

¹ The exemption does not apply to temporary event notices

² Para 16.31 Home Office Guidance issued to Local Authorities, April 2018

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>