

## **Representation following the Application for a New Premises Licence at Unit 2, Townsend Farm, Ilminster TA19 0JA**

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### **Purpose of the Report**

To inform members that an application has been received from Bristol Cider Shop Ltd, for a premises licence to be granted under the Licensing Act 2003 at Unit 2, Townsend Farm, Ilminster TA19 0JA

### **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 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 three “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 upon written/email request.

The details of the application are summarised as follows:

- Applicant: Bristol Cider Shop Ltd

Licensable activities applied for:

### **Supply of Alcohol (J) – Consumption ‘Off’ the Premises Only**

Day	Start Time	Finish Time
Monday	09:00	18:00
Tuesday	09:00	18:00
Wednesday	09:00	18:00
Thursday	09:00	18:00
Friday	09:00	18:00
Saturday	09:00	18:00
Sunday	09:00	18:00

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	09:00	18:00
Tuesday	09:00	18:00
Wednesday	09:00	18:00
Thursday	09:00	18:00
Friday	09:00	18:00
Saturday	09:00	18:00
Sunday	09:00	18:00

Non-Standard Timings:

None

### **Additional steps put forward by the applicant to comply with the licensing objectives:**

Please see Section M (pages 17 - 18) 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 imposed by the Licensing Committee).

### **Evidence that advertising/notice requirements have been complied with:**

- The applicant has confirmed that notices advertising the application were displayed at the premises from 10 September 2021 for the requisite 28 day period. A further notice was placed in the Somerset County Gazette on 23 September 2021 of which we have a copy.

### **Representations – Responsible Authorities**

- None.

### **Representations – Other Persons**

Three relevant representations were received from 'Other Parties', which mainly relate to:

- Non-compliance with our current Statement of Licensing Policy  
  
4.1.2 It is recommended that applicants liaise with neighbours/or any relevant community group such as a local residents association, or other such groups, as may be appropriate prior to submitting the application.'
- Concerns that road safety and traffic issues; light pollution; proxy sales of alcohol; anti-social behaviour and violence may affect them. They have been asked for further information on how this may affect them.
- Other issues raised were also of a planning nature and the advertising process similar to that of below.
- No details had been supplied of the operating schedule for the public to comment on.  
As this is not a planning application details would have been supplied by the licensing team upon request as per notices.

Several letters/emails of concern were also received that were addressed to the planning team and copied to the licensing team; they were mainly in the form of a template letter and did not explain how the granting of a premises licence would affect them personally rather than the community at large.



The issues raised included the following:

- They had not been personally advised of the application and that it was by chance that it had been discovered close to the deadline
- Planning issues - local plan, local plan review and Ilminster neighbourhood plan; a housing development; grade of agricultural land; ample employment land to the west of the town; intrusion into landscape; conservation area; proximity to a listed building; no evidence of a report from Highways and fears that future retail outlets may also move to the site.
- Plenty of other licensed premises in the area
- Concerns were also raised that the application was for indoor and outdoor dining and problems could occur if alcohol is consumed at the premises.
- Road safety issues – mainly about the entrance to the farm being located on a double bend, which the authors consider to be dangerous.
- Light pollution to some premises; possible additional litter

Where an email address had been given in these letters, (which was the vast majority), the authors of these letters/emails were sent an email reply prior to the closing date which explained the following:

- the advertising process was not the same as planning and a link to the advertising regulations was given; further that a notice advertising the application was posted on our website.
- the planning issues could not be considered under the Licensing Act 2003 as both legislative regimes were quite separate; however that should it be determined that the licence would be granted, if planning permission was required and not gained, there would be a breach of planning legislation.

Information about the proposed hours of operation were also provided and that the applicant had stated that no members of the public will be permitted on site except to collect pre-purchased orders from the office; CCTV will be installed at the premises and all alcohol will be stored in a secure premises.

The authors were then advised that if they wished to submit a relevant representation to ensure it reached the licensing team by 23:59 on 07 October 2021 and to relate their concerns to the four (named) licensing objectives and how the granting of the licence may affect them personally.

Letters were also written and posted to those that did not provide or have an email address to explain the situation.

A Parish Meeting asked for the deadline to be extended; however it was explained that as the process was statutory, this was not possible.

No further representations were received.

## Relevant Observations

There is no cumulative impact policy for this area; therefore the number of premises already licensed for the sale of alcohol is not a factor in determining the application.

No application for a premises licence would be required if the applicant was proposing to sell non-alcoholic apple juice from the premises; therefore the movement of traffic may be the same.

A premises licence would be required even if the applicant did not permit pre-booked collections from the premises as the sale of alcohol would take place where the order was put aside for the specified customer.

From the plan, the building for storage and the office appears to be approximately 9.5 metres by 6.5 metres.

## Further Information

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

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

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

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

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

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

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