

Public Agenda Pack



Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Council Offices, Cannards Grave Road, Shepton Mallet BA4 5BT, on Wednesday, 6 September 2023 at 10.00 am

Present:

Cllr Simon Carswell (Chair)
Cllr Marcus Kravis (Vice-Chair)
Cllr Hugh Davies

Other Members present remotely:

Cllr Tony Robbins

5 Apologies for Absence - Agenda Item 1

A number of residents had sent apologies to Democratic Services.

6 Declarations of Interest - Agenda Item 2

None.

7 Procedure to be followed when considering Licensing Applications under the Licensing Act 2003 - Agenda Item 3

The Chair announced that he would be changing the order of speaking so that the Applicant, would follow the Licensing Officer. The Responsible Authorities and Other Persons would follow in that order.

The Chair advised that a late request was received from the Police to speak at the hearing. There were no objections and therefore the Police would be able to speak at the appropriate time.

8 Consideration of an application for the variation of the Premises Licence in

respect of The Mill at Rode, Rode Hill, Rode, BA11 6PS - Agenda Item 4

The Licensing and Business Support Officer was invited to present his report. He explained the Council had received an application from Butcombe Brewery Ltd to vary the Premises Licence at the Mill at Rode, Rode Hill, Rode, BA11 6PS.

The application was to increase the licensable area, increase the hours for regulated entertainment and to amend the conditions of the licence.

Current Licence:

Regulated Entertainment	Days	Start Time	End Time
Live Music – indoors only	Thursday to Saturday	23:00	23:30
Recorded Music – indoors only	Friday to Saturday	23:00	23:30
Non-standard timings and seasonal variations: New Years Eve – Extension to 01:30 New Years Day Summer Ball – Extension to 00:30 the next day			

Proposed Variation:

Regulated Entertainment	Days	Start Time	End Time
Live Music and Recorded Music indoors and outdoors	Sunday	11:00	23:00
	Monday to Thursday	11:00	00:00
	Friday to Saturday	11:00	01:00
Non-standard timings and seasonal variations: New Years Eve – Extension to 01:30 New Years Day Summer Ball – Extension to 00:30 the next day			

Application for Change to Conditions:

To remove the following conditions from the licence: Annex 3 There shall be no more than 75 regulated entertainment events per year and these events are not to be held on consecutive days. Within this number are included no more than 3 outdoor events per year.

Conditions on Outdoor Events:

Outdoor events should be scheduled so that there is:

At least a period of two clear weekends between each outdoor event

No evening event occurring on either the day before or the day after the outdoor event.

A plan indicating the positioning, output wattage and orientation of all amplified music speakers shall be submitted to the Licensing authority for approval not less than 21 days prior to the event.

Conditions on indoor events:

All entrance/exit doors shall be kept closed during all music and entertainment events except for the purpose of allowing access or egress.

All external windows shall be kept closed during music and entertainment events.

Add the following conditions to the licence:

There shall be no more than 75 regulated events per year, within this number including no more than 10 outdoor events per year.

All entrance and exit doors that face on to the public highways (rather than into the car park or private area) shall be kept closed during all regulated entertainment events for the purpose of allowing access or egress.

All external windows which face onto the public highways but not into the car park shall be kept closed during regulated entertainment events inside the premises.

The use of external licensed area as edged red for supply of alcohol and use of the marquee and use of external bars services will not be subject to 'conditions on outdoor events' as detailed in this licence.

The Council had received 57 representations which collectively related to all four of the Licensing Objectives.

There had been a meeting for residents and others, but no agreement had been reached.

The 57 representations were made by 2 Responsible Authorities (Environmental Protection and the Police), 1 Ward Councillor, the Parish Council and 53 other persons. A summary of the representations had been appended to the Report.

Questions

There were no questions for the Licensing and Business Support Officer about his report.

The Applicant's submission

Tim Shield, Solicitor, was invited to speak on behalf of the Applicant. He explained The Mill operated as a tenanted premises on behalf of the Butcombe Brewery. The Brewery had owned the premises for just over 10 years. Sam Knight was the current tenant. He was a very experienced in the licensing trade.

Mr Shield explained, due to problems, it had been necessary to evict the previous tenant during the COVID Pandemic. Since then, the current tenant had proved to be very suitable. He had improved the business since he had been there, including extensive redecoration. The tenant was seeking to make the Mill a viable business going forward.

Mr Shield referred to the supplementary papers. These papers showed the food and drink that would be available at the premises, including the prices. The building comprised of part restaurant, part function room, part bar.

The application, including the area and hours of operation had been designed to give the premises flexibility. He did not believe the proposed changes to the current licence would cause the premises to become a nuisance. The external areas included a pizza oven area and a kitchen garden. He said the outside areas faced away from neighbouring residents.

The new licence would mean the regulated entertainment, namely live music and recorded music, could operate in line with the hours of serving alcohol. Thus, the overall hours of operation would not increase.

He described events such as the beer festival, weddings and family days. Such events would require the hours of operation that had been set out in the application.

He went on to comment on the recommended conditions, which had been suggested by the Police and Environmental Protection. He said they had good

discussions with the Responsible Authorities. He also hoped that the concerns which had been raised by residents would be addressed by the suggested conditions.

Questions:

In response to questions Mr Shield and Dominic Rowley explained the previous tenant had been evicted from the premises in April 2022. To address concerns about control of alcohol sales, the representatives described the vision for the business. Sam Knight assured the Other Persons that the premises would not turn into a sports venue. The premises only had one television which was in the area where customers ate.

In response to further questions, Mr Shield said the Applicant believed there was no significant drug issue at the premises. However, they would be happy to have a Drug Policy.

When necessary, the premises could call on car parking stewards to control the use of the car park. The premises had already held 30 events this year and car parking had not been an issue.

The Applicant explained that when the application mentioned events like a wedding it meant functions of a similar style, such as a 3-course meal, with similar entertainment.

The Applicant confirmed they would accept the word entertainment being added to the conditions. He was further accepted that the conditions refer to a calendar year.

Regarding keeping the windows and doors closed the condition should include except for the purpose of access and egress.

The Applicant agreed that the application should be clarified to make it clear that with regard to the 10 outdoor events. The finishing times of family days and beer festivals etc. would be 22:00. For events within the marquee midnight.

The Applicant explained that the previous tenant had not complied with the conditions of the lease. The Brewery had taken action and removed the tenant. There had been no issues since the current tenant had been at the premises.

The Police said, in the past, they had not experienced support from the previous tenant nor the Brewery in resolving historic issues. The Chair said he hoped the parties would take note of the point. However, it was not necessarily relevant for the

consideration of the business on the agenda.

Mr Pickett said residents were concerned they had not had enough time to consider the supplementary papers the application appeared to be changing and was becoming confusing.

In response to further questions the Environmental Health Officer confirmed there had been no complaints about noise from the premises in recent years. He further confirmed the Council had not carried out any noise monitoring of the premises because it had not been necessary to do so.

The Chair agreed to adjourn the meeting for 15 minutes in order for the suggested conditions to be set out clearly and circulated to all. The Licensing and Business Support Officer created a document which was circulated between all attendees, so that it clarified what the current proposals were.

Following the adjournment, the following conditions were proposed:

1. There shall be no more than 75 regulated entertainment events per year. Within this number no more than 10 outdoor events per calendar year.
2. Music from outdoor events shall cease before 22:00.
3. The erection and dismantling of structures, namely stages, marquee, etc. shall not take place within the hours of 23:00 and 08:00 (10:00 on Sundays)
4. All windows and doors must be kept shut while regulated entertainment is held internally, except for the purpose of access or egress.
5. The Premises Licence Holder or a nominated deputy shall take all reasonable steps to effect full control over all noise sources arising from the premises having particular regard to amplified and non-amplified music. The Premises Licence Holder or a nominated deputy shall, where necessary, arrange for the volume of any music to be reduced or the playing ceased if, in the opinion of the Licensing Authority, reasonable cause for annoyance is likely to arise or is occurring. The Premises Licence Holder shall ensure that at least one such responsible person be available on the premises at all times (contactable by Officers of the Licensing Authority), whilst members of the public remain on the premises.
6. Provision of regulated entertainment within a marquee by way of live music or recorded music to terminate on these occasions of 00:00 and event to finish at 00:30.

Agreed with Environmental Protection

Licensable hours

Alcohol indoors and outdoors and Live and Recorded Music indoors and outdoors & increased licensable area.

Hours for both above are:

Sunday 11:00 – 23:00

Monday – Thursday 11:00 – 00:00

Friday & Saturday 11:00 – 01:00

Representation by the Avon and Somerset Constabulary, Responsible Authority:

The Area Licensing Practitioner summarised the representation which had been made by the Avon and Somerset Constabulary.

She said historically that Butcombe Brewery had failed to take action to resolve problems at the premises. Historic problems had included drugs. It appeared the current tenant had operated the premises without such problems. However, a recent visit had shown that not every detail of the licence had been complied with. For instance, joining the Pubwatch Scheme. However, this had been done since the Police had raised the concern.

She welcomed changes for the premises going forward. However, the Applicant had not approached the Police ahead of the current application which she said would have been helpful if it had.

Since the application had been submitted, she had been given an opportunity to discuss it with the Applicant and had suggested conditions as follows:

1. There shall be a maximum of 10 'event days' per year which shall include the use of the marquee in the outside area.
2. The premises must install and maintain a comprehensive surveillance system to the satisfaction of the Police and ICO guidelines. The system must be maintained in full working order and record at all times when the premises is open for licensable activities. The correct time and date must be generated on all recordings which must be retained for a minimum period of 31 days. Recorded images must be of evidential quality. Copies must be made available on request, to the police or authorised officer of the licensing

authority. If the system is inoperative or faulty for any reason, steps must be taken to repair or replace the equipment within 24 hours. A Data Controller who is conversant with the operation of the system must be available at all times when the premises is open to the public and be able to provide police or authorised officer of the licensing authority recent data or footage with the absolute minimum of delay when requested. Management, storage, giving and sharing of data recordings must comply with the general data protection regulations at all times.

3. A bound or electronic incident register will be kept and maintained to record all incidents occurring on the premises or outside and associated with the premises. Records will be made available to the Police and Licensing Authority on request and records will be kept for at least 12 months.
4. A bound or electronic refusals register will be kept at each bar and used on the premises, to record instances where any sale of alcohol and proxy sales to a patron is refused. This will also include refusals to persons who are intoxicated. Records will be kept for a minimum of 12 months and will be made available to the Local Authority, Police and Trading Standards Officers upon request.
5. The premises will operate a "Challenge 25 policy", whereby anyone wishing to purchase alcohol that appears to be under the age of 25 years, will be asked to provide photographic identification e.g. Passport, driving licence, PASS card. Challenge 25 posters will be displayed.
6. All persons involved in the sale of alcohol will receive training on commencement of employment, with regards to preventing the sale of alcohol to persons who are under the required age and proxy sales. This training will also include illegal drug use and refusing sale of alcohol to persons who are intoxicated. This training will be documented and signed for by employees to acknowledge that they have received this training. All employees will receive refresher training every six months. Records must be made available for inspection by the Police and Licensing Authority upon request.
7. A drugs and crime prevention policy will be put in place and retained on the premises. Full co-operation will be given to any drugs initiatives undertaken by the Police and licensing authority. A record will be kept of any searches undertaken and items seized, and records will be made available upon request to Police or authorised officer of the Licensing Authority. A copy of the policy shall be forwarded to the police and shall be refreshed 6 monthly by the premise licence holder.
8. The licence holder will operate a 'zero tolerance' policy in relation to drugs at the premises and all staff will receive training with regards to this policy. Drugs seized by staff will be securely stored, until they can be collected by the Police. A copy of the policy shall be forwarded to the police and shall be refreshed 6 monthly by the premise licence holder.

9. External services for the sale of alcohol shall cease at 2100hrs (2330 for weddings etc) except for 'Event Days', when the service of alcohol shall cease at 2200hrs.
10. Any 'event' which attracts more than 500 people at any one time shall require an Event Management Plan to be produced and retained at the premises. The EMP shall include a Traffic Management Plan and also take into consideration the '**Purple Guide**' or similar guidance and will be made available to the Police or Licensing Authority upon request.
11. No 'Event' shall be over 700 capacity.
- 12.A Risk Assessment shall be drawn up by the Premise Licence Holder/Designated Premises Supervisor to determine the number of SIA doorstaff that should be employed for each 'Event Day' opening. This Risk Assessment shall be provided to the police if requested. Any Risk Assessment shall be subject to change in consultation with the police.
13. Vehicular speed limit signs (5mph) will be placed in strategic locations around the site.
14. All outdoor areas shall be adequately lit at all times when in use.
15. Vehicular movement shall be controlled when the outside area is being used for 'Event Days'.
16. The area outside of the premises shall be adequately protected by way of 'cones' or similar when the premises is to host 'Event Days' which will attract over 500 people to ensure that access to nearby properties is easily available to residents, families and any other medical providers.

The representative for the Applicant said the Applicant would agree to all of these conditions proposed by the Police, except number 9, as they would request a later terminal hour.

Questions

In response to questions the Area Licensing Practitioner confirmed how the Police would deal with problems such as lost CCTV footage and incidents of drink-driving as a result of sales of alcohol at the premises.

The representative of the Police confirmed that whilst she had only made one visit to the premises, the Police had a local neighbourhood team who could attend.

Apart from the omission to join Pubwatch the Police had no cause for concern by the current tenant.

She confirmed that if the suggested conditions were put in place she was hopeful that the premises could operate without causing a nuisance.

The Police understood that when the application stated 10 events that meant 10 event days. No event should last more than a day.

Representation by the Environmental and Community Protection Team

The Senior Environmental Health Practitioner summarised the representation by the Environment and Community Protection Team. He said they would withdraw their objections if the following conditions were attached to the licence:

1. A Noise Management Plan shall be submitted to the Licensing Authority and shall outline measures to be taken to minimise noise disturbance from regulated entertainment when events are to be held externally.
2. A person responsible for the overall control of noise shall be appointed and this nominated person shall make regular patrols of the outside of the premises during any external regulated entertainment to ensure the noise levels do not cause a public nuisance at nearby residential properties.
3. all nearby residential properties as agreed with environmental protection in the noise management plan referred to in condition 7 shall be notified by letter and social media at least 7 days in advance of any external regulated entertainment event and shall be provided with a contact number for the person responsible for the overall control of noise from the premises.

Questions

In response to questions the Officer confirmed there had been no recent noise complaints because of the premises. Any licence could be reviewed in the light of complaints though a reasonable amount of time would be needed to gather evidence.

The Senior Licensing and Business Support Officer explained that the regulated entertainment within the marquee were included in the 10 events per year. The licence would require that local residents be notified of the 10 events. But there was no requirement for them to be informed of any other activities. The Officer then suggested that the second condition proposed by Environmental Protection included the word "internal" so that any regulated entertainment shall required regular patrols, this was agreed by the Applicant.

There was no knowledge as to whether the Environment Agency had been notified of the application. Nor was it relevant to the licensing hearing.

The Applicant confirmed the application had been designed to accommodate a

variety of events, which could include the outside area known as the island and the car park. For instance, one of the day events might include a car show.

The Applicant confirmed he had played music at the venue during a daytime wedding. This event had not caused a nuisance.

The representative for the Applicant explained de-regulated entertainment could already take place in the licensable area. Currently, the licensed area was the building itself. However, the application sought to extend the area outside. Therefore, de-regulated entertainment could take place outside. However, the representative for the Applicant confirmed they would continue to adhere to the law regarding regulated and de-regulated entertainment activities.

The Environmental Protection Officer said that there was a proposed condition that the premises monitor noise. The Sub Committee could add a condition that records of such monitoring be kept if they felt it was necessary.

Representation by Councillor Andy Pickett on behalf of the Rode Parish Council and Tellisford Parish Meeting

He said the Rode Parish Council were opposed to the application. He said the application had changed so much there should be a fresh consultation.

He was particularly concerned that the licensable activities being extended to outside areas such as the island, the car park and the kitchen garden. Due to the de-regulation of live and recorded music he warned it would be permitted for events to be held in this new area which was outside and therefore likely to cause a noise nuisance.

He said many residents were concerned about the potential for noise.

He explained the island acted as a useful buffer and area for wildlife. There was concern that this could be lost.

Representation by Gill Bliss

She was opposed to the application. She said the residents had not been adequately consulted. She said Rode was a tranquil village which consisted of lots of families. Residents were worried that the premises would change the feel of the village.

Representation by Michael Benson

He was opposed to the application. He said the premises were in a quiet and beautiful location. He said in the past the premises had caused a noise nuisance which had affected his caravan park. He was concerned that the removal of the current conditions would cause the problem to return.

He was concerned the new licence would alter the nature of the village and that it would be detrimental to his business.

Representation by Sarah Benson

She was opposed to the application. She was very concerned about the potential for noise nuisance caused by events held outside.

Representation by David Clay

He was opposed to the application. He was also very concerned about the potential for noise nuisance caused by events held outside.

Representation by Jim McAuliffe

He said he was a member of the Rode Parish Council, but he was speaking as a resident of the village. He had hoped that the current application would be withdrawn so that the Applicant could address the concerns of the Parish Council and other residents. However, he noted the Applicant was pursuing the application despite the concerns.

He remained concerned about road safety and noise.

Representation by Priscilla Thomas

She was opposed to the application. She said the Mill had been problematic since 2016. They had hoped the pub was going to be well managed. But she objected to the premises becoming an events venue. She was concerned that the premises would become too busy, too noisy and a cause light pollution. Of particular concern was the potential for noise caused by outdoor events.

Representation by David Jupp

He was opposed to the application. He was concerned that the area should be protected for environmental reasons. He was concerned about noise and lighting. He said it had been necessary to add conditions to the current licence because of issues in the past and if they were removed then the problems would return.

Representation by Nigel Hellier

He was opposed to the application. He lived 350 metres from the Mill. However, he said he had not been made aware of the application by the Applicant. He felt the Brewery had been poor at communicating with the residents. He understood the Applicant had a business case which included events. However, he said the residents should not suffer as a result.

Representation by Grant Slade

He was opposed to the application. He lived 100 metres from the Mill. He was concerned that events at the premises would cause a noise nuisance. He noted that there had been 57 representations submitted with concerns about the application. This was a lot. He asked the Committee to consider each of these. He asked that this application be rejected, and that the Applicant resubmit a fresh application which addressed the concerns of residents and the authorities.

The Chair thanked the Other Persons for their contributions.

Questions

There were no questions of the Other Persons.

Summary

Other Persons

Rode Parish Councillor Andy Pickett said the previous Council had attached some very effective conditions on the current licence. However, residents were particularly concerned that should these be removed and that the premises be permitted to hold events outside there was a high risk that it would cause problems for the village including noise nuisance.

He asked that the current application be rejected and that the Applicant be asked to resubmit a more acceptable application.

Responsible Authorities:

Avon and Somerset Constabulary

The Officer re-iterated her representation. She said if the Sub Committee was minded to approve the application then she asked that all of the conditions suggested by the Police be attached to the licence and that these be in place constantly in order to minimise any nuisance from the external areas and times of operation.

She further clarified that the 10 events should be for 10 separate events, and that any single event should not last any more than 24 hours.

Applicant

Mr Shield said the application had been subject to a consultation process and that a meeting for residents had been held.

He said that the meeting today had helped them to crystallise the application.

He re-iterated the detail of the application. He explained how it had been designed to allow the Applicant flexibility to build a successful business.

He said the Applicant had accepted all, bar one, of the conditions suggested by the Police and all of the conditions suggested by the Authority's Environmental Protection Officer. He noted that Environmental Protection had withdrawn their representation as a result.

He asked the Sub Committee to approve the application. He said there was no evidence to suggest the application would cause a nuisance. There was no record of complaints.

It was also offered by the Applicant that conditions referring to events, will be changed to days to avoid any confusion with regards to limits and that events in a marquee on Sundays, will have a terminal hour of 23:00 and an event finish of 23:30.

Licensing and Business Support Officer

The Licensing and Business Support Officer said as a result of the adjournment, a fresh set of recommended conditions had been drawn up and circulated.

He summed up by stating that the Sub Committee should consider the application before them on its own merits. He said the Sub Committee had three options:

OPTIONS

- 1. Grant the application with no modifications, and only attach conditions as required by the 2003 Licensing Act. These shall include mandatory conditions and conditions consistent with the operating schedule.
- 2. Grant the application, modified to such an extent as the Licensing Authority considers appropriate for the promotion of the Licensing Objectives
- 3. Refuse the application, giving reasons for its decision.

Finally, he stated that, all parties had the right of appeal to the Magistrates' Court within 21 days of being notified in writing of the decision.

The Chair thanked everyone for attending. He said the decision of the Sub Committee would be made known within 5 working days of the hearing.

Private Session

The Chair then closed the meeting, and the Sub Committee considered the application in private session.

RESOLVED

See the Decision Notice for details.

(The meeting ended at 2.30 pm)

.....
CHAIR

This page is intentionally left blank



DECISION NOTICE

Licensing Sub-Committee

6 September 2023 at 10:00

Council Chamber, Council Offices (East),
Cannards Grave Road, Shepton Mallet, BA4 5BT

and online

Members of the Licensing Sub-Committee

Cllr. Simon Carswell (Chair)

Cllr. Marcus Kravis

Cllr. Hugh Davies

Cllr. Tony Robbins (Online)

Also, in attendance:

Lesley Dolan	Principal Lawyer and Deputy Monitoring Officer	Legal Adviser to the Licensing Sub-Committee
Debbie Widdows Helen Bowen	Democratic Services Officers	Somerset Council
Phil Wake Jack Godley Tim Shield Dominic Rowley	Licensing Officer Licensing Lead John Gaunt & Partners Tenant Operations Manager, Butcombe Brewery Limited	Somerset Council Somerset Council Solicitor for the Applicant Licence Holder
Sam Knight	Tenant	Designated Premises Supervisor (DPS) for the Applicant

Rachet Trent-McCarthy	Tenant	
Nicola King and PC Kayleigh-Ann Lunn	Area Licensing Practitioners, Avon and Somerset Police	Responsible Authority
Richard Allard	Environmental Health Officer, Somerset Council	Responsible Authority
Gill Bliss	Local Resident	Other Persons
Michael Benson	Local Resident	Other Persons
Sarah Benson	Local Resident	Other Persons
David Clay	Local Resident	Other Persons
Jim McCauliffe (Online)	Local Resident	Other Persons
Pricilla Thomas	Local Resident	Other Persons
Nigel Hellier	Local Resident	Other Persons
Grant Slade	Local Resident	Other Persons
Andy Pickett	Representing Tellisford Parish Meeting & Rode Parish Council	Other Persons

It was noted that others were present and online.

This decision relates to an application by Butcombe Brewery Limited (“the Applicant”) for a variation to the premises licence in respect of its premises known as The Mill at Rode, Rode Hill, Rode, BA11 6AG (“the Premises”) under the Licensing Act 2003 and associated regulations (“the Act”) as described in the application form and as set out in the Operating Schedule. The Application has been further amended following representations made by Responsible Authorities and Other Persons and during the Hearing.

The application as submitted,

- seeks to increase the licensable area,
- increase the hours for regulated entertainment, and
- to amend the conditions on the current licence.

Licensable Activities

CURRENT LICENCE			
Regulated Entertainment	Days	Start Time	Finish Time
Live Music – Indoors only	Thu - Sat	23:00	23:30
Recorded Music – indoors only	Fri - Sat	23:00	23:30
Sale by Retail of Alcohol – indoors only	Mon – Thu	11:00	00:00
	Fri – Sat	11:00	01:00
	Sun	11:00	23:00

Non-standard timings and seasonal variations:
 New Years Eve – Extension to 01:30 New Years Day
 Summer Ball – Extension to 00:30 the next day

PROPOSED VARIATION AS PER THE APPLICATION

Regulated Entertainment	Days	Start Time	Finish Time
Live Music and recorded music – Indoors and outdoors	Mon – Thu	11:00	00:00
	Fri – Sat	11:00	01:00
	Sun	11:00	23:00
Sale by Retail of Alcohol – indoors and outdoors	Mon – Thu	11:00	00:00
	Fri – Sat	11:00	01:00
	Sun	11:00	23:00

Conditions

Remove the following conditions from Annex 3 of the current licence:

- There shall be no more than 75 regulated entertainment events per year and these events are not to be held on consecutive days. Within this number are included no more than 3 outdoor events per year.
- **Conditions on Outdoor Events:**
 Outdoor events should be scheduled so that there is:
 - At least a period of two clear weekends between each outdoor event
 - No evening event occurring on either the day before or the day after the outdoor event.
 - A plan indicating the positioning, output wattage and orientation of all amplified music speakers shall be submitted to the Licensing authority for approval not less than 21 days prior to the event.
- **Conditions on indoor events:**
 - All entrance/exit doors shall be kept closed during all music and entertainment events except for the purpose of allowing access or egress.
 - All external windows shall be kept closed during music and entertainment events.

Add the following conditions to the licence:

- There shall be no more than 75 regulated events per year, within this number including no more than 10 outdoor events per year.
- All entrance and exit doors that face on to the public highways (rather than into the car park or private area) shall be kept closed during all regulated entertainment events except for the purpose of allowing access or egress.

- All external windows which face onto the public highways but not into the car park shall be kept closed during regulated entertainment events inside the premises.
- The use of external licensed area as edged red for supply of alcohol and use of the marquee and use of external bars services will not be subject to 'conditions on outdoor events' as detailed in this licence.

Summary and Legal Basis

Prior to the hearing, 57 representations to the application were received from Responsible Authorities (The Police and Environmental Protection) 1 Ward Councillor, the Parish Council and 53 Other Persons - residents living in the vicinity of the Premises (including a representation from the Tellisford Parish Meeting).

The representations received collectively relate to all four licensing objectives. Local residents as Other Persons have raised objections relating to noise nuisance, in particular relating to crowd and music noise from the premises and disturbance from the increased number of vehicles coming to the Premises. Although the Council's Highways Department had been consulted no response from them had been received at the time of the hearing. However, for information a response was received the next day, and this can be found at the end of this Decision Notice.

The Licensing Sub-Committee's jurisdiction is to determine the application for a variation to the premises licence in accordance with the Act, the Statutory Guidance issued under s182 of the Act and the Council's adopted Statement of Licensing Policy. The decision to grant the variation to a premises licence can only be made following a consideration as to whether the application will promote the licensing objectives. The licensing objectives are set out within the Licensing Act as

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

These are the only matters upon which the Licensing Sub-Committee has jurisdiction to hear and make its decision. Further guidance as to the extent, nature of purpose of these licensing objectives is set out in the Statutory Guidance. Where a lawful application is made to the licensing authority and no relevant representations are received, the Licensing Authority is bound to grant the application subject to relevant and mandatory conditions. (Paragraph 1.15 of the Statutory Guidance).

Certain bodies and organisations are set down by the Act as "Responsible Authorities" who must be consulted on applications and can make representations. As well as Responsible Authorities persons and other organisations who are not responsible authorities can also make representations and they are referred to as "Other Persons". Any representations made, irrespective of where they come from must be "relevant" which is defined as being in relation to one or more of the licensing objectives (Paragraphs 8.13 and 9.4 of the Statutory Guidance). This

means that matters which do not directly relate to at least one of the four licensing objectives, and how an application will impact on that objective, cannot be considered by the Licensing Sub-Committee. In making this statement the Licensing Sub-Committee acknowledges that there may be other regulatory or compliance issues which the Applicant may need to address, or which Responsible Authorities or Other Persons may have concerns about. If those other issues do not directly relate to the licensing objectives, they cannot be submitted or heard. To do so risks making any decision reached unlawful. The Sub-Committee is aware of the position set out in the Council's Licensing Policy at paragraph 3.5.6 which mirrors the Statutory Guidance at paragraph 14.65.

At today's hearing the Sub-Committee has heard from the following people:

Licensing Officer – Phil Wake

Licensing Lead – Jack Godley

Applicant's Solicitor – Tim Shield, accompanied by Dominic Rowley and Sam Knight

Nicola King – Avon and Somerset Police as Responsible Authority

Richard Allard – Environmental Protection as Responsible Authority

As Other Person: Gill Bliss, Michael Benson, Sarah Benson, David Clay, Jim McCauliffe (Online), Pricilla Thomas, David Jupp (via Grant Slade) Nigel Hellier, Grant Slade and Andy Pickett for Tellisford Parish Meeting and Rode Parish Council.

The Sub-Committee recognises that additional Other Persons who have submitted representations attended the hearing, either online or in person, and some of them asked questions.

The Sub-Committee has also considered written evidence from anyone who had sent in relevant representations within the required time limit but did not attend the hearing or did not wish to speak. All written submissions have been considered.

The Chair of the Sub-Committee and Cllr Kravis have visited the Premises prior to the hearing to better understand the layout and geography of the local area and their observations have been included in the determination of the Application.

The Sub-Committee has addressed:

1. The provisions of the Licensing Act 2003 which confer the powers of the Licensing Authority to deal with the application.
2. The obligation to promote the four licensing objectives.
3. The existence of other statutory provisions such as the Environmental Protection Act 1990; the Anti-Social Behaviour Act 2003 and planning and highways legislation.
4. The relevant sections of the Council's Statement of Licensing Policy and Statutory Guidance

The Licensing Sub-Committee acknowledges that it must carry out its functions with a view to promoting the four licensing objectives, set out in Section 4(2) of the 2003 Act. The Licensing Sub-Committee further acknowledges that any representations which are received must be relevant and evidenced-based and any restrictions they seek to impose on a licence must be necessary, appropriate for the promotion of the licensing objectives and based upon that evidence.

Applicant's Submissions

The Applicant confirmed that it was amending the Application in the light of the representations that had been received. A Clarification document was presented to the Sub-Committee (Appendix 64 to the agenda papers). The Applicant is seeking to increase the licensable area to include the external areas for the provision of sale of alcohol in the external areas. The request is for live and recorded music both indoors and outdoors to reflect the current hours for the sale of alcohol which are Monday - Thursday 11:00-00:00, Friday and Saturday 11:00-01:00 and Sunday 11:00-23:00.

The Applicant has offered up in Conditions (Appendix B to this Decision Notice).

The Applicant asked the Sub-Committee to consider proportionality and reasonableness in making its decision and that it felt the responses from the Other Persons were worst case scenarios or based on the operation of the business by the previous DPS. The Applicant accepts that there is history of problems with the previous tenant, but there has been nothing adverse in the last 15 months. Two of the Sub-Committee Members have visited the site to familiarise themselves with the geography. The licensing regime is permissive and as per the case of **Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)**, the Sub-Committee must look at real evidence, fear is not enough.

The application has been advertised in accordance with the legislation and any conditions need to be appropriate, necessary, and proportionate.

Responsible Authorities

The Sub-Committee noted that relevant representations had been made by the Police and Environmental Protection as Responsible Authority: that is organisations and bodies identified as such under the Act.

When addressing the Sub-Committee, the Licensing Practitioner for the Police confirmed that there had been no crime statistics since the current tenant had taken over in 2020, although there had been a complaint about a drink driver which had been handled by the DPS with no Police intervention and there had been no further issues in this regard. She confirmed that she had visited the site once since the application was submitted. She referred to intel received from the Brewery about a drug debt that was due to be collected at the premises whilst under the previous DPS and that no action was taken by the Police apart from passing the information to the Neighbourhood Team.

She submitted a set of 16 Conditions that the Police would want to see endorsed on the licence if the Sub-Committee were to grant the application. During the hearing the Applicant's solicitor confirmed that his client was happy to agree to all these Conditions apart from No.9. Attached, as Appendix A, are the Conditions proposed by the Police.

The Sub-Committee was addressed by Mr Allard, the Environmental Protection officer. He confirmed that following discussions with the Applicant prior to the hearing, he had agreed Conditions which mitigated the concerns set out in his representation and that accordingly, he advised the Sub-Committee that his representation on behalf of Environmental Protection was withdrawn. Attached at Appendix B – Conditions agreed with Environmental Protection – Conditions 7-9, are the Conditions that Mr Allard has agreed with the Applicant.

Other Persons' Objections

In making oral representations to the Sub-Committee, the Other Persons focused on the noise coming from events and penetrating their properties and increased traffic on the rural lanes. They referred to the distance of the premises to their respective properties and the sound amplification given the topography of the land. The Premises are in a quiet rural area and the noise and disturbance caused by what is proposed would change the character of this peaceful village. Speakers referred to previous problems with events being held at the premises prior to 2005 under the previous tenant. Residents owning a certified 5 pitch caravan site and holiday cottage business, advised that the noise from outside events had been intolerable and that the position had only been mitigated by the imposition of the current conditions attached to the premises licence in 2005.

The Applicant has failed to adhere to the Statement of Licensing Policy (4.1.2 and 4.1.3) in that they have failed to consult with the Police and Neighbours. The changes to the application are wholesale, the Applicant doesn't need to licence the entire outside area. By doing so the Applicant seeks to turn the entire site into a live venue. In terms of the concerns raised regarding increased traffic movements and the disturbance that these would cause to roads in the locality, particularly with patrons departing events at Farleigh House being channelled towards the Mill, the Council's Highways section had been consulted, but at the time of the hearing no response had been received.

Consideration

The Sub-Committee is very aware of the strength of feeling from the Other Persons against the Application. The Sub-Committee considers that the only relevant matter before them related to the prevention of public nuisance, specifically relating to noise emanating from the Premises. As previously stated, to lawfully refuse an application, the Sub-Committee must have evidence that the licensing objective for the prevention of public nuisance will be undermined if the application were granted. In

that regard, they quite rightly, rely on the expert opinion of the Environmental Protection team as a Responsible Authority (as set out in paragraph 9.12 of the Statutory Guidance). The Environmental Protection Officer and the Applicant have agreed proposed conditions with a view to minimising noise disturbance. As a result of these agreed conditions the Environmental Protection representation has been withdrawn. Whilst Other Persons may think that further assessment or restriction is necessary, this view is not supported by the expert officer.

The Sub-Committee notes that the Other Persons complain of having lived with noise disturbance in previous years. This was caused by the operation of the business by the previous tenant but there is no evidence of any public nuisance being caused by the current tenant's running of the business and undermining of the public nuisance licensing objective. Equally, one instance relating to drink driving at the premises, where the Police took no action does not support a claim that the Applicant is unable to manage the Premises effectively.

The Sub-Committee agrees with the Applicant that the Other Persons take any disturbance at all at any time as public nuisance and that this is not the definition of public nuisance within the Act. Whilst public nuisance within the Act is not so narrowly defined as in other legislation, and the term "public" can be limited to a few members of the local community, there is no expectation within the Act that all licensed premises must be always entirely be inaudible to others. The noise nuisance must exist and further must exist to undermine the public nuisance objective for conditions to be imposed or an application to be rejected.

Having considered the submissions, the Statutory Guidance and the Act, the Sub-Committee does not consider that this Application in its varied form as set out above will undermine the public nuisance objective in terms of noise disturbance. This is an application for variation of an existing premise licence and the Applicant is offering a variety of restrictions and conditions to limit noise nuisance, not least the production of a noise management plan which has been approved by the Environmental Protection Team. Whilst the Sub-Committee accepts that there may have been occasions of disturbance in the past, this related to the previous tenant and DPS. The current licence and current conditions were put in place to control such disturbance. Those incidents cannot be used as evidence of public nuisance against a new tenant and an Applicant who seeks to amend its licence together with new operating conditions.

The Sub-Committee further notes that under the Live Music Act 2012 and the Legislative Reform (Entertainment Licensing) Order 2014, premises which are licensed to sell alcohol are permitted to play live and recorded amplified and unamplified music between 08:00 and 23:00 on any day without any further licence or conditions granted by the licensing authority, provided that the audience does not exceed 500. This is a deregulation which has been set by Parliament and the Sub-Committee has no jurisdiction to interfere with it.

If playing of music at the Premises until 23:00 does cause nuisance at some future date, Environmental Protection have powers to respond to this under other legislation or a review of the licence can be requested.

Conclusion

On the evidence before it, having considered all the circumstances, in particular the expert opinion from the Environmental Protection Officer, the Sub-Committee grants the application for a variation to the Premises Licence as applied for, subject to the offered amendments as set in the section entitled **Applicant's Submissions** above together with the conditions agreed with the Police, with the exception of Condition 9 (Appendix A) those agreed with Environmental Protection (Appendix B – Conditions 7-9) save that in regard to Condition 7 the Sub-Committee determines that this should be amended to read “**noise disturbance from all entertainment held externally**” and that Condition 8 requirement for patrolling should relate to both internal and external regulated entertainment.

To summarise

1. The current licence to be varied so that the variations as set out at A and B of the application (Page 20 of the agenda papers) be granted.
2. The amended Licence be subject to the Conditions agreed by the Applicant and the Police at Appendix A to this decision Notice, and the Conditions offered up by the Applicant and those agreed with Environmental Protection and further amended by the Sub-Committee as set out at Appendix B to this Decision Notice.
3. Alcohol indoors and outdoors and live and recorded music

Mon – Thurs 11:00 until 00:00

Fri and Sat – 11:00 until 01:00

Sun 11:00 until 23:00

The Sub-Committee delegates authority to the Licensing Officer to add the Conditions to the Operating Schedule on the varied licence.

The Sub-Committee advises the Other Persons that if in the future, they have concerns about the operation of the premises under the Licensing Act 2003 they are advised to report incidents to the Licensing Authority and or Environmental Protection as well as keeping records of any concerns.

Parties are reminded that there are rights of appeal against this the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the Authority's decision.

All parties are reminded of the procedures contained within the Licensing Act 2003 relating to review of the premises licence. This provision permits nearby residents, businesses or responsible authorities to apply for a review of a premises licence

where problems with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. The Sub-Committee respectfully reminds all parties that for any review to go ahead, evidence would need to be collected of incidents occurring that undermine the licensing objectives.

Informative:

Whilst the Sub-Committee were advised that at the time of the hearing, no response had been received from Highways, the day after the hearing, the following response was received.

“Re: providing Highway comments on The Mill restaurant/pub’s license application I can report the following. Please note I have not had access to any current or future expected vehicle volume data for Rode Hill where this premises is located, and therefore can only respond in general terms. –

The Mill has good access links from the A36 to the West and the A361 to the East via Rode Hill. The anticipated increase in the volume of traffic likely to be seeking access to the Mill should the license be agreed is unknown, although it is not considered to represent a significant increase in current levels. It is also noted that there have been no recorded road traffic collisions involving personal injury in the last five years. We are not aware of any related highway issues that could be of concern should the license be granted.

Many thanks

Jeff

Jeff Bunting

Service Manager - Traffic Management, Road Safety and Parking

Somerset Council



A Greener, More Sustainable Somerset

Mill @ Rode, Rode – Variation Application

Proposed Conditions V1

1. There shall be a maximum of 10 ‘event days’ per year which shall include the use of the marquee in the outside area.

b) The prevention of crime and disorder

2. The premises must install and maintain a comprehensive surveillance system to the satisfaction of the Police and ICO guidelines. The system must be maintained in full working order and record at all times when the premises is open for licensable activities. The correct time & date must be generated on all recordings which must be retained for a minimum period of 31 days. Recorded images must be of evidential quality. Copies must be made available on request, to the police or authorised officer of the licensing authority. If the system is inoperative or faulty for any reason, steps must be taken to repair or replace the equipment within 24 hours. A Data Controller who is conversant with the operation of the system must be available at all times when the premises is open to the public and be able to provide police or authorised officer of the licensing authority recent data or footage with the absolute minimum of delay when requested. Management, storage, giving and sharing of data recordings must comply with the general data protection regulations at all times.
3. A bound or electronic incident register will be kept and maintained to record all incidents occurring on the premises or outside and associated with the premises. Records will be made available to the Police & Licensing Authority on request and records will be kept for at least 12 months.
4. A bound or electronic refusals register will be kept at each bar and used on the premises, to record instances where any sale of alcohol and proxy sales to a patron is refused. This will also include refusals to persons who are intoxicated. Records will be kept for a minimum of 12 months and will be made available to the Local Authority, Police and Trading Standards Officers upon request.
5. The premises will operate a “Challenge 25 policy”, whereby anyone wishing to purchase alcohol that appears to be under the age of 25 years, will be asked to provide photographic identification e.g. Passport, driving licence, PASS card. Challenge 25 posters will be displayed.
6. All persons involved in the sale of alcohol will receive training on commencement of employment, with regards to preventing the sale of alcohol to persons who are under the required age and proxy sales. This training will

also include illegal drug use and refusing sale of alcohol to persons who are intoxicated. This training will be documented and signed for by employees to acknowledge that they have received this training. All employees will receive refresher training every six months. Records must be made available for inspection by the Police & Licensing Authority upon request.

7. A drugs & crime prevention policy will be put in place and retained on the premises. Full co-operation will be given to any drugs initiatives undertaken by the Police & licensing authority. A record will be kept of any searches undertaken and items seized, and records will be made available upon request to Police or authorised officer of the Licensing Authority. A copy of the policy shall be forwarded to the police and shall be refreshed 6 monthly by the premise licence holder.
8. The licence holder will operate a 'zero tolerance' policy in relation to drugs at the premises and all staff will receive training with regards to this policy. Drugs seized by staff will be securely stored, until they can be collected by the Police. A copy of the policy shall be forwarded to the police and shall be refreshed 6 monthly by the premise licence holder.
- ~~9. External services for the sale of alcohol shall cease at 2100hrs (2330 for weddings etc) except for 'Event Days', when the service of alcohol shall cease at 2200hrs.~~
10. Any 'event' which attracts more than 500 people at any one time shall require an Event Management Plan to be produced and retained at the premises. The EMP shall include a Traffic Management Plan and also take into consideration the '**Purple Guide**' or similar guidance and will be made available to the Police or Licensing Authority upon request.
11. No 'Event' shall be over 700 capacity.
12. A Risk Assessment shall be drawn up by the Premise Licence Holder/Designated Premises Supervisor to determine the number of SIA door staff that should be employed for each 'Event Day' opening. This Risk Assessment shall be provided to the police if requested. Any Risk Assessment shall be subject to change in consultation with the police.

c) Public safety

13. Vehicular speed limit signs (5mph) will be placed in strategic locations around the site.
14. All outdoor areas shall be adequately lit at all times when in use.

15. Vehicular movement shall be controlled when the outside area is being use for 'Event Days'.
16. The area outside of the premises shall be adequately protected by way of 'cones' or similar when the premises is to host 'Event Days' which will attract over 500 people to ensure that access to nearby properties is easily available to residents, families and any other medical providers.

Conditions

1 – There shall be no more than 75 regulated entertainment days per year. Within this number no more than 10 outdoor days per calendar year *to include any events provided in a marquee.*

2 - Music from outdoor events shall cease before 22:00.

3 – the erection and dismantling of structures, namely stages, marquee, etc. shall not take place within the hours of 23:00 and 08:00 (10:00 on Sundays)

4 – All windows and doors must be kept shut while regulated entertainment is held internally, except for the purpose of access or egress.

5 - The Premises Licence Holder or a nominated deputy shall take all reasonable steps to effect full control over all noise sources arising from the premises having particular regard to amplified and non-amplified music. The Premises Licence Holder or a nominated deputy shall, where necessary, arrange for the volume of any music to be reduced or the playing ceased if, in the opinion of the Licensing Authority, reasonable cause for annoyance is likely to arise or is occurring. The Premises Licence Holder shall ensure that at least one such responsible person be available on the premises at all times (contactable by Officers of the Licensing Authority), whilst members of the public remain on the premises.

6 - Provision of regulated entertainment within a marquee by way of live music or recorded music to terminate on these occasions at 00:00 and event to finish at 00:30. For events taking place in a marquee on a Sunday, live and recorded music to terminate at 23:00 and the event to finish at 23:30.

Agreed with Environmental Protection

7 - A Noise Management Plan shall be submitted to the Licensing Authority and shall outline measures to be taken to minimise noise disturbance from regulated entertainment when events are to be held externally.

8 – A person responsible for the overall control of noise shall be appointed and this nominated person shall make regular patrols of the outside of the premises during any external and internal regulated entertainment to ensure the noise levels do not cause a public nuisance at nearby residential properties.

9 – all nearby residential properties as agreed with environmental protection in the noise management plan referred to in condition 7 shall be notified by letter and social media at least 7 days in advance of any external regulated entertainment event and shall be provided with a contact number for the person responsible for the overall control of noise from the premises

Licensable hours

Alcohol indoors and outdoors & Live and Recorded Music indoors and outdoors & increased licensable area

Hours for both above are Sunday 11:00 – 23:00 Mon – Thurs 11:00 – 00:00, Friday & Saturday 11:00 – 01:00

This page is intentionally left blank