

Board/Committee:	Licensing Board
Date of Meeting:	24th August 2021
Title:	Application
Author:	Head of Environmental Health
Status:	FOR DECISION

Purpose

This report advises the Licensing Board of an application for a new premises license at 5 Beminsters Lane Gosport PO12 1HB and advises Members of the relevant representations received from interested parties in respect of the application.

1 Background

- 1.1 The Licensing Act 2003 specifically restricts the grounds on which the Council, as Licensing Authority (LA), may refuse an application for a Premises Licence, or impose conditions. Where relevant representations are made, the LA may refuse on the grounds that the licensing objectives are not met or the operating schedule is inadequate. Equally, conditions may be imposed where relevant and necessary. The LA may also refuse an application in part and thereby only permit some of the licensable activities sought.
- 1.2 The decision making Licensing Sub-Board, in considering an application, must have regard to the adopted Statement of Licensing Policy, Section 182 Guidance issued by the Secretary of State and any relevant representations made by those directly affected.
- 1.3 An applicant applying for a premises licence, whose application has been refused, or who is aggrieved by conditions imposed, may appeal against the decision to the Magistrates' Court.
- 1.4 In considering this application the Sub-Board will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the Sub-Board must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision. The Sub-Board must also have regard to:-

Crime and Disorder Act 1998

Section 17 of the Crime and Disorder Act 1998 places a Council

under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights Act 1998

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon other persons Human Rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

2. Procedure for the Hearing of the Application

The standard procedure for the hearing of this licensing application can be seen as Appendix A.

2 Report

2.1 This application is in respect of:-

5 Bemisters Lane, Gosport, Hampshire, PO12 1HB

The applicant is:

Jonathan Hope of 5 Bemisters Lane, Gosport, Hampshire, PO12 1HB

The type of application is new premises licence.

2.2 The licensable activities the application is seeking is:

Summary: Premises is a café where they would like to sell alcohol to go with customer's meals.

Live music: Friday & Saturday 19:00 – 22:00

Recorded music: Monday – Sunday 09:00 – 18:00

Sale of Alcohol: Monday – Thursday 11:00 – 18:00; Friday & Saturday 11:00 – 22:00

2.3 A copy of the application and premises plan can be seen as Appendix B.

2.4 A map showing the locality of the premises and the residences of those interested parties that have made a representation can be seen as Appendix C.

3. Proposed Conditions

- 3.1 The mandatory conditions and those proposed by the applicant can be seen as Appendix D.

4. Representations

- 4.1 During the 28 day consultation period, Gosport Borough Council has received 9 relevant representations from local residents (other persons under the Act), citing the crime and disorder and public nuisance objectives. One of the representations was withdrawn following mediation between the applicant and the representee.

These can be seen as Appendix E.

- 4.2 No representations were received from any of the responsible authorities.

5 Conclusion

- 5.1 The Sub-Board members are asked to review the information in this report and any additional evidence presented to them at the Hearing and determine the application.

Financial Services comments:	
Legal Services comments:	
Crime and Disorder:	
Equality and Diversity:	
Service Improvement Plan implications:	none
Corporate Plan:	n/a
Risk Assessment:	n/a
Background papers:	none
Appendices/Enclosures:	
Appendix A	Procedure for Hearing of Applications under the Licensing Act 2003
Appendix B	Application form
Appendix C	Locality map
Appendix D	Proposed Conditions
Appendix E	Representations
Report author/ Lead Officer:	Pearl Gillies