

Licensing and Regulatory Sub-Committee



Forest Heath
District Council

Title of Report:	Application for the Grant of a Premises Licence in respect of Regent Place, 122 High Street, Newmarket
Report No:	LSC/FH/18/003
Report to and date/s:	Licensing and Regulatory Sub-Committee – 14 March 2018
Portfolio holder:	Councillor Lance Stanbury Portfolio Holder for Planning and Growth Tel: 07970 947704 Email: lance.stanbury@forest-heath.gov.uk
Lead officer:	Sheila Gowans Licensing Officer Tel: 01638 719364 Email: sheila.gowans@westsuffolk.gov.uk
Purpose of report:	To determine an application for the grant of a Premises Licence under the Licensing Act 2003. There have been a number of representations, and the Sub-Committee are, therefore, required to determine the application.

Recommendation:	<p>It is recommended that, having regard to the four Licensing Objectives; Statement of Licensing Policy; the representation(s) and any further relevant information presented on the day of the Hearing; Members take any of the steps set out below provided they are proportionate and appropriate for the promotion of the four licensing objectives:</p> <p>(1) Approve the application; or (2) Modify the conditions of the licence and approve the application; or (3) Reject the application.</p>		
Key Decision:	<p><i>Is this a Key Decision and, if so, under which definition?</i> No, it is not a Key Decision - <input checked="" type="checkbox"/></p>		
Consultation:	See number 4 below		
Alternative option(s):	N/A – the Council is duty bound to determine the application		
Implications:			
<i>Are there any financial implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any staffing implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any ICT implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any legal and/or policy implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> See number 5 below	
<i>Are there any equality implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Any decision reached which is not in accordance with the Act and any regulations made under the Act may be considered ultra vires and could be subject to an application for Judicial Review	High	The Sub-Committee, should have regard to its statement of licensing policy and any other guidance issued under section 182 of the Licensing Act 2003, but may depart from these where reasons are given.	Low

Ward(s) affected:	St Marys directly and possibly neighbouring Wards
Background papers:	Licensing Act 2003 S.182 Guidance https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003 Forest Heath Statement of Licensing Policy http://www.forestheath.gov.uk/info/20063/licences_and_street_trading/22/statement_of_licensing_policy
Documents attached:	Appendix 1 – Application Appendix 2 – Map of the immediate area Appendix 3 - Representation PH Appendix 4 – Representation Police Appendix 5 – Representation LA Appendix 6 – Representation Harlow Appendix 7 – Representation Johnstone Appendix 8 – Representation Thompson Appendix 9 – Representation NTC Appendix 10 – Amended operating schedule

1. Key issues

1.1 An application has been received for the grant of a Premises Licence for Regent Place, 122 High Street, Newmarket. A copy of the application is attached which includes a plan of the premises as **Appendix 1**.

1.2 The application is for a restaurant and bar.

The licensable activities applied for are recorded music and the sale of alcohol for consumption on and off the premises.

The opening hours originally requested were Monday to Sunday 09.00 to 01.30.

After consultation with the responsible authorities these have now been changed to:

Mon to Thurs 09.00 to 24.30

Fri & Sat 09.00 to 01.30

Sunday 09.00 to 23.30

Live music, as a licensable activity, has been removed but can be played between 09.00 to 23.00 as it is now deregulated.

Extra hours, up to 02.00, are requested for up to 35 occasions per calendar year for pre-booked events with up to 50 people.

1.3 A map showing the immediate area is attached as **Appendix 2**.

1.4 The four Licensing Objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives.

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Nuisance
- Protection of Children from Harm

2. Relevant Representations

2.1 The application has to be advertised, both at the premises and in a local newspaper. Details are also available on the Council website. This application was advertised in the Newmarket Journal on 1 February 2018.

2.2 **Responsible Authority** There are three representations from Public Health and Housing, the Police and the Licensing Authority. These can be seen at **Appendix 3, 4 and 5**.

2.3 **Other Persons** Any representation made by these persons must be 'relevant' in that the representation relates to one or more of the licensing objectives. There have been four representations from other persons, which are attached as **Appendix 6 to 9**.

3. Matters for consideration

- 3.1 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each local authority 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.
- 3.2 The location of the premises is within the Cumulative Impact area of Newmarket which members should have regard to when making their decision.
- 3.3 If the Licensing Authority decides that this application should be refused, it will need to show that to grant the licence would:
1. undermine the promotion of the licensing objectives; and
 2. that appropriate conditions would be ineffective in preventing the problems involved.

If the Licensing Authority cannot show the above, the application should be granted.

- 3.4 In making their decision, Members are advised to consider the Licensing Act 2003, the Guidance on the Act and the Council's Statement of Licensing Policy.

4. Consultation

- 4.1 The applicant is required to place a notice on the premises; and advertise the application in a locally circulating newspaper/periodical. The Licensing Authority advertises the application on the Council website.
- 4.2 During the application period discussions have taken place between the applicant and the responsible authorities. This has resulted in a change to the opening times as detailed at 1.2 and some amendments to the operating schedule which can be seen at **Appendix 10**.

5. Legal and policy implications

- 5.1 The Sub-Committee may take any of the steps set out below, provided they are proportionate and appropriate for the promotion of the Licensing Objectives:
- a) Approve the application; or
 - b) modify the conditions of the licence and approve the application; or
 - b) reject the whole or part of the application.

A condition is modified where it is altered or omitted or any new condition is added.

- 5.2 Section 6 of the Licensing Statement of Policy, paragraph 6.1, as set out below, is relevant and is brought to the attention of the Licensing Act Sub-Committee: "The Licensing Authority, through the exercise of its licensing functions once its discretion is engaged, shall not seek to restrict the trading hours of any particular premises unless it is considered necessary and proportionate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits;"

- 5.3 The current statement of licensing policy, includes a cumulative impact policy at section 9. The premises is sited within the area covered by the Cumulative Impact Policy adopted for Newmarket and therefore, this is a relevant matter for consideration in respect of this particular application and full consideration of the statement of licensing policy.
- 5.4 The Cumulative impact policy was based on evidence received from Suffolk Constabulary and sought, as indicated in the statement of licensing policy to "*prevent a further increase in the number of licensed premises within the area...*". This application as a new premises would be an increase in that number.
- 5.5 The policy states that "the proposals in respect of the town centre are intended to target those premises that will increase the numbers of customers in the area and those premises serving alcoholic drinks and/or takeaway food after 11:00pm that can act as a flash point for crime and disorder and public nuisance. It is not intended to constrain the development of other entertainment uses which do not add to the problems being experienced in this area".
- 5.6 A cumulative impact policy should never be absolute. Where an application is referred to a hearing, the circumstances of each application must be considered properly. As stated in the Council's Statement of Licensing Policy, the impact can be expected to be different for premises with different styles and characteristics.
- 5.7 Each application should be considered on its own merits, having regard to the Council's Statement of Licensing Policy and the guidance issued under section 182 of the Licensing Act 2003.
- 5.8 The licence application is made in accordance with the Licensing Act 2003 and the Licensing Statement of Policy. The decision may be appealed, by the applicant or any other party to the hearing, within 21 days of written notification of the determination made by the sub-committee.
- 5.9 When representations have been made the Council must hold a Hearing within 20 working days of the close of the consultation period. The Licensing Act 2003 (Hearings) Regulations 2005 allows the Licensing Authority the power to extend the time limit for a specific period, when it considers this to be necessary and in the public interest.