

Report To:	LICENSING SUB COMMITTEE	Date:	30TH OCTOBER 2018
Heading:	HEARING FOR APPLICATION FOR A NEW PREMISES LICENCE: PALMS BISTRO, 96-98 VICTORIA ROAD, KIRKBY IN ASHFIELD, NOTTINGHAMSHIRE, NG17 8AS		
Portfolio Holder:	DEPUTY LEADER – OUTWARD FOCUS		
Ward/s:	SUMMIT		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

For Members to consider evidence produced at a public hearing, taking into account the details contained within this report and any representations made at this meeting, for an application to grant a New Premises Licence to Deanna & Gary Thrall in relation to Palms Bistro, 96-98 Victoria Road, Kirkby in Ashfield, Nottinghamshire, NG17 8AS; and to determine the application by taking such of the steps set out below as the Committee considers necessary for the promotion of the licensing objectives.

Recommendation(s)

Members having regard to the application and any relevant representations, take such of the following steps as they consider appropriate for the promotion of the licensing objectives:

The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- a) Grant the licence in accordance with the application.**
- b) Modify the conditions of the operating schedule by altering or omitting or adding to them.**
- c) Exclude or restrict from the scope of the licence any of the licensable activities to which the application relates.**
- d) Reject the whole of the application.**

The Sub-Committee may also grant the licence subject to different conditions for different parts of the premises or the different licensable activities.

Reasons for Recommendation(s)

Members must consider all evidence offered at the Hearing and make an unbiased decision on the evidence offered. In making any decision, Members must also have regard to the Home Office statutory guidance issued under section 182 of the Licensing Act 2003 (which can be found online at):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/702067/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

and the Council's own Statement of Licensing Policy (which can be found online at): **<http://www.ashfield.gov.uk/media/1605/adc-licensing-policy-la03-2014.pdf>**.

Alternative Options Considered

(with reasons why not adopted)

None

Detailed Information

The Licensing Act 2003 came in to force in September 2005. It passed the powers to the Local Authority to licence premises for any of the following licensable activities:

- **The sale by retail of alcohol;**
- **The supply of alcohol by or on behalf of a club or to the order of a member of the club;**
- **The provision of regulated entertainment; and**
- **The provision of late night refreshment.**

The licensing objectives are:

- **The prevention of crime and disorder;**
- **The promotion of public safety;**
- **The prevention of public nuisance; and**
- **The protection of children from harm.**

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times. However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

Section 18 of the 2003 Act, allows Interested Persons, and Responsible Authorities, to make representations in favour or against applications for the grant of a Premises Licence. Should representations be made that cannot be resolved between the parties during any consultation period, then the application must be determined by a Licensing Committee or Sub-Committee Hearing.

Other Relevant Considerations

The Sub-Committee is reminded of its responsibilities under the Crime and Disorder Act 1998 (to co-operate in the reduction of crime and disorder in the Ashfield District) and the Human Rights Act (which guarantees the right to a fair hearing for all parties in the determination of their civil rights, and also provides for the protection of property, which may include licences in existence, and the protection of private and family life) when considering the fair balance between the interests of the all parties to this Hearing.

Any decision taken by the Sub-Committee must be necessary and proportionate to the objectives being pursued.

Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives. When considering any representations, only those issues relating to the licensing objectives should be considered, and appropriate weight given to the importance and relevance of each representation.

Members should note that the applicant or persons making representations have the right of appeal against the decision made by the Sub-Committee.

Summary of Application

On 5th September 2018, the Licensing Authority received an application from Deanna & Gary Thrall for the grant of a New Premises Licence for Palms Bistro, 96-98 Victoria Road, Kirkby in Ashfield, Nottinghamshire, NG17 8AS seeking to provide licensable activities at the premises.

A summary of the licensable activities applied for and the times proposed for these activities can be found detailed below.

Sale of Alcohol (on sales only):

Monday – Sunday	12:00 (noon)	Until	22:00
New Year’s Eve	12:00 (noon)	Until	23:30

A summary of the proposed opening hours can be found detailed below.

Opening Hours:

Monday – Sunday	08:00	Until	22:30
New Year’s Eve	08:00	Until	00:15

Both the application and the steps that the applicant intends to take to promote the licensing objectives (which were agreed with the Responsible Authority for the Licensing Authority ahead of the application being submitted) can be found at **Appendix A**.

On 28th September 2018, the applicants advised the Licensing Authority that they wished to reduce the proposed opening hours on Monday – Sunday from 23:00 hours (as detailed within their original application) to 22:30 hours as detailed in the table above.

During the 28 day consultation period, Nottinghamshire Police confirmed to the Licensing Authority that as a Responsible Authority that they had agreed with the applicants further conditions to be applied to any Premises Licence that may be granted in order to promote the licensing objective of the “prevention of crime and disorder”. A copy of the conditions agreed between the Police and the applicant is attached at **Appendix B**.

During the consultation period the Licensing Team received representations submitted by Interested Parties objecting to the application. These representations are attached at **Appendix C**, and the representations raise concerns that the proposed business may undermine the licensing objectives. Please note, that some of the Interested Parties requested that their names and addresses be redacted (original copies of their representations can be provided upon request by the Sub-Committee).

It should be noted that the Interested Parties have been informed that irrespective of the times put forward by the applicants in their New Premises Licence application, that any restrictions currently in place in relation to the planning permissions for this premises will take priority, irrespective of what may be granted at this Licensing Sub-Committee Hearing.

As such, the applicants would be required to vary their planning permissions, in order to enjoy the hours sought within the licensing application.

A map detailing the general location of the premises is attached at **Appendix D**.

Implications

Corporate Plan:

Licensing Act 2003 is a statutory duty of the Council.

Ensuring that Premises and Clubs operate with the correct Licence, having regard to the Council's Statement of Licensing Policy on alcohol, regulated entertainment, and late refreshment licensing, will contribute towards the reduction of crime and disorder within the district and to improve community safety and environmental quality.

Legal:

Legal advice will be given at the hearing.

Finance:

Information Only

No financial implications for the Council.

This report is effective from 30th October 2018 and has the following financial implications:

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
It is important that due process is followed in considering this application to ensure that the correct decision is reached which could not be challenged on the grounds that the specified procedures have not been followed.	The hearing has been organised to ensure that due process is followed, with appropriate support from the Council's legal representative to ensure this.

Human Resources:

Information Only

There are no direct HR implications contained within this report

Equalities:

Information Only

Statutory requirement of the Licensing Act 2003, there no diversity or equality implications.

Other Implications:

None

Reason(s) for Urgency

Not Applicable

Reason(s) for Exemption

Not applicable

Background Papers

(if applicable)

Report Author and Contact Officer

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