

DECISION NOTICE

Northern Area Licensing Sub Committee

Decision made on 5 April 2022

Application for a Premises Licence – The Hop Garden, Broadtown Brewery, 29 Broad Town Road, Broad Town, Swindon, made by Jason Bayliffe

Councillors:

Cllr Steve Bucknell, Cllr Kevin Daley (Chair) and Cllr Tim Trimble

Decision:

Arising from consideration of the report, the evidence and submissions from all parties and having regard to the Statutory Guidance, the Council's Statement of Licensing Policy and the Licensing Act 2003 the application for a Premises Licence in respect of The Hop Garden, Broadtown Brewery, 29 Broad Town Road, Broad Town, Swindon be granted for the licensable activities show below in the table and subject to the relevant conditions offered by the Applicant, together with the following additional conditions as recommended by the Senior Environmental Health Officer (incorporated below):

Licensable Activities	Days	Timings
Sale by retail of alcohol for consumption ON and OFF the premises	Thursday to Sunday (To include Bank Holiday Mondays)	11:00 – 23:00

Conditions

Prevention of Public Nuisance

1. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours in the surrounding vicinity.
2. Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and to leave the vicinity as quickly and quietly as possible.

3. No deliveries (in relation to licensable activities) to the premises shall take place between 18:00 hours and 07:00 hours.
4. All waste shall be properly presented and placed out for collection. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 22:00 hours and 07:00 hours on the following day.
5. A sufficient number of suitable receptacles will be located in appropriate locations for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter by customers.
6. A telephone number shall be made available for neighbours and local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to a member of staff on site at the time. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises.
7. Taxi operator's telephone numbers will be advertised to customers. The operators will be advised that drivers should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily.
8. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
9. The premises will ensure all staff leave the premises quietly at the end of their shifts and so as to avoid causing disturbance or nuisance to local residents.
10. In the absence of adequate daylight, artificial lighting in any area accessible to the public shall be fully operational whilst the public are present. All exits/entrances will be kept clear at all times.
11. The collection of glasses and bottles shall be undertaken at regular intervals.
12. All internal and external doors, fixtures and fittings, lighting and emergency lighting will be kept in good working order and regular checks made. Lighting will be available in the car park area.
13. The premises shall engage an acoustician to advise on suitable mitigation measures specific to controlling noise from the hop garden including the structure that contains the bar/seating area. The mitigation is to include the following:
 - i) Installation of a properly designed and constructed noise barrier that is capable of providing at least 5dB sound attenuation to protect the nearest residential receptor from noise occurring within the hop garden bar structure. This acoustic barrier is to be erected in full by Friday 5th August 2022.
 - ii) A noise management plan to set out noise controls for dealing with noise from patrons who are using the hop garden to minimise any noise impact from patrons on the nearest residential receptor.
 - iii) The noise controls should include target sound levels at key monitoring points close to the boundary with residential premises to allow Broad Town Brewery to undertake their own validation sound monitoring using a sound level meter at regular intervals to ensure that noise controls are working. Source measurements shall be undertaken as LAeq levels over a 15-minute

integration period to encapsulate the fluctuating nature of human speech over a reasonable time window.

- iv) A plan must be included to show the location where monitoring is to take place. Written/aural observations shall also be made at this monitoring location by a member of staff. These observations must relate to both music and people noise. Notes shall be made on what corrective actions are taken if monitoring confirms target levels are exceeded.
- v) The bar speaker shall not exceed 70dBA at source.
- vi) The maximum numbers of patrons who use the timber framed bar area must not exceed 80 persons between the hours of 6pm and 10pm.
- vii) The premises must engage an acoustic expert to assist them comply with items 13i to vi above. The acoustic expert shall produce a noise management plan to incorporate items i. to vi. to be submitted to the council's Senior Environmental Health Officer by 5th June 2022 and implemented in full thereafter.

Public Safety

- 14. All bar staff, supervisors and managers will be trained in the legality and procedure of alcohol sales to Level 1 Responsible Alcohol Retailing Training or similar. All training shall be signed and documented. Training records will be kept on the premises and be made available for inspection.
- 15. The documentation relating to training will extend back to a period of three years and will specify the time, date and details of the persons both providing the training and receiving the training.
- 16. All staff engaged in licensable activity at the premises will receive training and information in relation to the following:
 - i) The Challenge 25 Policy including the forms of identification that are acceptable;
 - ii) The hours and activities and conditions permitted in the premises licence,
 - iii) How to complete and maintain the refusal register in operation at the premises,
 - iv) Recognising the signs of drunkenness,
 - v) The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or
 - vi) appears to be making a proxy purchase,
 - vii) Action to be taken in the event of an emergency, including reporting an incident to the emergency services.
- 17. Training shall be recorded in documentary form and shall be regularly refreshed every year. Training records shall be made available for inspection.
- 18. We will adhere to the Portman Group Code of Practice for the promotion of alcoholic drinks and follow the Home Office guidance on selling alcohol responsibly. A drink, its packaging and any promotional material or activity will not in any direct or indirect way appeal to under 18s or incorporate images of people who are or look as if they are under 25 years of age where there is any suggestion that they are drinking alcohol.
- 19. There shall be a responsible trained person on duty at the premises at all times when the premises are open and selling alcohol.

Protection of Children From Harm

20. There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 policy. The poster will be on display. All staff working at the premises will ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:
- A photo driving licence
 - A passport
 - An identification card carrying the PASS hologram

Unless such identification is produced the sale of alcohol will be refused.

21. The age verification policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18 (proxy sales).
22. An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The refusals register will be made available for inspection.
23. Children over 16 years of age will be allowed unaccompanied on the premises, under 16's will be accompanied by an adult over 18 years of age.
24. No children under the age of 18 years of age will be allowed on the premises after 21:00 hours.

Prevention of Crime and Disorder

25. An incident log shall be kept and maintained at the premises which will include the time and date of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The logs shall be kept for at least 12 months following the date of entry and be made available for inspection.
26. Premises checks will occur at regular intervals throughout opening hours.
27. Open containers of alcohol shall not be removed from the premises.
28. All alcohol on display will be in such a position so as not to be obscured from the constant view of staff.
29. A written drugs policy shall be in place and operated at the premises.
30. The CCTV system which is registered with and complies with the Information Commissioner's Office guidance is monitored and operated by Jason Bayliffe. The CCTV GDPR policy will be made available for inspection. The system has a 31-day recording facility. Clear signage stating that CCTV is in place will be displayed.

The Applicant

The Applicant informed the Sub Committee that during the Covid pandemic period in early 2021 the customers of Broadtown Brewery were encouraged to make use of the outside areas of the premises which was deemed safer by Government/Public Health guidance. In April 2021 the Applicant constructed an outside marquee seating area

which would then direct his customers into a specific area (restricted to half an acre) within the premises site and a specific car parking area was also allocated.

Four live events were hosted by the premises to raise money for charity in the summer of 2021. It was felt that these events raised the spirits of the community with many customers reporting that they felt the business and the services provided were an asset to the area. For the 60 days that the premises was open between April and September 2021 and no noise complaints were received by Environmental Health in relation to the premises.

The Applicant attended Parish Council meetings to inform the village of his plans for the premises and took on board the feedback received. He had received many positive comments supporting his plans and what he had brought to the local community and economy.

Whilst the current premises licence for Broadtown Brewery covers the 24 acres of the premises for consumption, the Hop Garden was created to minimise the areas to be used by customers and to create an enclosed controlled area for customers and reduce staff and customers walking through the car park area.

The Applicant instructed LCP Acoustics for advice and guidance on the noise management for the premises. The Applicant accepted the noise monitoring carried out by the Senior Environmental Health Officer on 31 March 2022 and the proposed conditions recommended by the Environmental Health Officer to manage any identified noise issues.

Responsible Authorities

The representation from the Senior Environmental Health Officer (Noise) was withdrawn prior to the meeting and there were no other representations from the Responsible Authorities.

Representations

One representation in objection to the application was received from two local residents residing at the same address. The local resident that spoke reported that the PA system and the live events hosted by the Applicant in 2021 had had a major effect on them and whilst they lived 500 metres away, they could hear music from the premises inside their house and this could be heard over the sound of the television in their home and had also caused disturbance whilst they were attempting to work at home during the evening.

The local resident reported that the PA system used by the premises could be heard as an audible conversation and that all words of songs could be heard clearly from their premises and felt that if this sound was recorded as source this would be 110-120db which would be the equivalent to a Rock concert and felt that this would cause harmful noise levels to those living close to the premises, particularly those at 28 Broad Town Road.

The local resident felt that the noise readings taken by the Noise Consultant in February 2022 and by the Senior Environmental Health Officer on 31 March 2022 did not reflect the usual noise that would be created by children, people eating and crowd related noise and whilst the Senior Environmental Health Officer had considered 80 patrons to be an acceptable number to be using the outdoor seating area she believed that the reduction to 80 (from 150) patrons would still disturb the nearest neighbours who were only 40 metres away from the premises.

The local resident felt that her concerns over harm to children could be solved by no sales of alcohol being permitted until an hour after the local schools had closed.

The local resident felt that the premises were causing nuisance to their neighbours and a quiet rural village was not a suitable location for this facility.

The local resident also made reference to a number of issues relating to highways, parking, planning and food safety but was informed at the hearing that these issues could not be considered by the Licensing Sub Committee.

Reasons

In reaching its decision, the Sub Committee took account of and considered all the written evidence and the representations from all parties and the oral submissions received from the Applicant, the Applicant's representatives and a resident who made a relevant representation at the hearing. The Sub Committee noted the concerns raised by the resident at the hearing but considered that the Applicant had provided sufficient evidence that the licencing objectives would be promoted in particular relating to public nuisance, with regards to the noise – in particular that the Applicant had accepted the recommendations offered by the Senior Environmental Health Officer and management of the numbers attending the premises. The Sub Committee heard no evidence that the Applicant would fail to promote the licensing objectives and no evidence of noise complaints was placed before the Sub Committee. The Applicant acknowledged that he was willing to work with the local residents to alleviate any concerns.

The Sub Committee were not able to consider any issues raised concerning food safety, planning and highway matters and any representations that were not concerned with the licensing application and the promotion of the licensing objectives.

The Sub Committee completely disregarded the summary provided by a villager on behalf of the Applicant because the Sub Committee did not consider that person had provided a summary for the applicant nor was a representative of the applicant.

The Sub Committee also disregarded all comments made by attendees leaving the hearing after the adjournment of the hearing at 11.20am.

The Sub-Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the four Licensing Objectives; the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

It should be noted that the Premises Licence Holder, any Responsible Authority(ies) and Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.

A Responsible Authority or an Interested Party may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by an Interested Party will not normally be granted within the first 12 months except for the most compelling circumstances.