

Title of Report	APPLICATION FOR THE GRANT OF A PREMISES LICENCE APPLICATION FOR NEW PREMISES LICENCE	
Presented by	Paul Dennis Licensing Enforcement Officer	
Background Papers	Revised Guidance issued under Section 182 of the Licensing Act 2003 Statement of Licensing Policy – Issue 7	Public Report: Yes
Purpose of Report	<p>To determine an application for the grant of a premises licence in respect of the premises Eden Bistro, 1-3 Ashby Road, Moira, Swadlincote, Derbyshire, DE12 6DJ.</p> <p>This report outlines the application and also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority’s Licensing Policy.</p>	
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.	

1. Background

- 1.1. An application for the grant of a new premises licence for Eden Bistro was received on 17 March 2021. The application is presented as **Appendix 1**. An aerial view of the site is presented as **Appendix 2**. A map of the site is presented as **Appendix 3**.
- 1.2. The application identifies that if the premises licence is granted, the following opening hours and licensable activities will occur.

Opening Hours	Timings	
	Everyday	07.00hrs - Midnight
Licensable activity	Timings	
Supply by retail of alcohol	Everyday	08:00hrs - Midnight
Live music (Indoors and outdoors)	Everyday	07.00hrs - 00:30hrs
Recorded music (Indoors and outdoors)	Everyday	07.00hrs - 00:30hrs
Provision of performances	Everyday	07.00hrs - 00:30hrs

of Dance (indoors and outdoors)		
Late night refreshment (indoors and outdoors)	Everyday	23:00hrs - Midnight

1.3. As part of the application, the applicant has specified the steps they intend to take in order to promote the four licensing objectives. These are as follows:

- **General**

- Ensure that any person selling or supplying alcoholic drink under the authority of a personal licence holder asks for a photo ID proof of age where they have reason to suspect that the individual may be under 18 years of age.
- Adopt and comply with the British Beer and Pub Associations Guidelines on On-Trade Promotions.
- Ensure all staff receive regular training on the responsible sale of alcohol (every 6 months) with a record of training kept up-to-date on the premises.

- **The prevention of crime and disorder**

- Provide a means of two way communication to report incidents between the premises and the local police or CCTV monitoring centre.
- Install Video/CCTV equipment inside/outside the premises and ensure that it is maintained in working order.
- Set Video/CCTV equipment to record from the time that the premises open to the public until the premises close and all members of the public have left.
- Ensure that any cameras covering the exterior of the premises are left to record for the duration of the tape and for a period not less than 24 hours a day.
- Ensure that monitoring tapes are retained for at least twenty eight days and are produced to an authorised officer on demand.
- Put up notices advising that CCTV has been installed on the premises so that they are clearly visible to the public within the licensed premises.
- Maintain an incident log of all instances of crime and disorder; and details of such checks are kept in a Log-book.

- **Public safety**

- Where glass bottles are used, they will be retained or disposed of on the premises.
- No customers will be admitted, or permitted to leave when carrying open or sealed bottles or glasses.
- Ensure that the consumption of alcohol is restricted to the areas identified on the plan attached to the operating schedule.
- Ensure that a secure deposit box is kept on the premises for the retention of confiscated items and ensure that the Police are advised of any items which require safe disposal.

- Be responsible for the disposal of waste on the frontage of the premises and make provision for the emptying of litter bins in the vicinity of the premises.
- Ensure that lighting is provided outside the premises (and in my private car park) during the hours of darkness when any licensable activity takes place on the premises.
- Make sure that escape routes and exits, including external exits, are maintained to ensure that they are not obstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified.
- Make sure that where chairs and tables are provided, internal gangways are kept unobstructed.
- Make sure that all exit doors are easily openable and do not require the use of a key, card, code or similar means
- Make sure that doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check is kept.
- Make sure that any removable security fastenings are removed whenever the premises are open to the public or occupied by staff.
- Make sure that all fire doors are maintained effectively selfclosing and not held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors).
- Make sure that fire resisting doors to ducts, service shafts, and cupboards are kept locked shut.
- Make sure that the edges of the treads of steps and stairways are maintained so as to be conspicuous.
- Safety checks are carried out before the admission of the public or club members and guests; and details of such checks are kept in a Log-book.
- Make sure that hangings, curtains and temporary decorations are maintained in a flame-retardant condition.
- Make sure that any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of Bs 5852:1990.
- Make sure that Hangings, curtains and temporary decorations are arranged so as not to obstruct exits, fire safety signs or firefighting equipment.
- Make sure that Temporary decorations are not used without prior notification to the licensing authority/fire authority.
- Make sure that notices detailing the action to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.
- The fire brigade will be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

- Notify the local Fire Control Centre as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.
- Access for emergency vehicles is kept clear and free from obstruction.
- Ensure that when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency, and that patrons are made aware of these arrangements.
- Ensure that adequate and appropriate supply of first aid equipment and materials is available on the premises.
- Ensure that at least 1 trained first aider will be on duty when the public are present. If more than one first-aider is present, I will make sure that their respective duties are clearly defined.
- In the absence of adequate daylight, I will make sure that the lighting in any area accessible to the public is fully operational.
- Ensure that Fire safety signs are adequately illuminated.
- Make no alterations to Emergency lighting without prior notification to the Licensing Authority.
- Ensure that Emergency lighting batteries are fully charged before admission of the public.
- In the event of failure of normal lighting, where the emergency lighting battery has a capacity of one hour, I will make sure that evacuation of the premises is possible within 20 minutes. Where the emergency lighting battery has a capacity of three hours, I will make sure that evacuation of the premises is possible within one hour.
- Temporary electrical wiring and distribution systems will not be provided without prior inspection by a suitably qualified electrician
- Ensure that any temporary electrical wiring and distribution systems comply with the recommendations of BS 7671 or where applicable BS 7909.
- Ensure that where temporary electrical wiring and distribution systems have not been installed by a competent person, they are inspected and certified by a competent person before they are put to use.
- Ensure that the following systems are maintained and inspected by suitably qualified professional persons in accordance with any British Standards and at intervals recommended in national guidance, and will keep the records of such inspections available for inspection by authorised officers on request:

- ◆ Building Electrical Installation
- ◆ Emergency Lighting System
- ◆ Fire Warning System
- ◆ Gas boiler, calorifier or appliance
- ◆ Oil fired boiler or appliance
- ◆ Suspended ceilings
- ◆ Portable fire fighting equipment
- ◆ Temporary Electrical Installation

- Ensure that I have valid public liability insurance in force and that a copy of the schedule is available for inspection by an authorised officer on request.

- Make no alterations to the premises in such a way as to make it impossible to comply with an existing licence condition, without first seeking a variation of the premises licence. Make free drinking water available at all times the premises is open to the public.

- **The prevention of public nuisance**

- Ensure that public information notices about crime and disorder issues are displayed at the request of the Council or the local Constabulary. (e.g. Customer Code of Conduct)

- Display any conditions of entry to the premises in the vicinity of any entrance to the premises.

- Make sure that any request by an authorised officer of the Council in relation to reducing noise levels is complied with.

- Make sure that the placing of bottles into receptacles outside the premises takes place at times that will minimise disturbance to nearby properties.

- Display prominent, clear and legible notices at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

- Ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

- Ensure that receptacles for waste are emptied regularly to minimise nuisance smells.

- Ensure that flashing or particularly bright lights on or outside the licensed premises do not cause a nuisance to nearby properties, whilst balancing the need for lighting in the interests of prevention of crime and disorder.

- Provide adequate and suitable (lidded) receptacles to receive and store refuse from the premises/site.

- Make sure that receptacles for refuse storage are maintained in a clean condition.

- Make sure litter is regularly cleared from the vicinity of the premises.

- **The protection of children from harm**

- Display any restrictions on the admittance of individuals according to age (e.g. Children) on or immediately outside the premises.

- Implement a proof of age policy agreed by the police and local authority.

- Implement and enforce a Challenge 25 scheme for the purchase of all alcohol at the premises.

1.5 As this is a new premises, there is no history of complaints concerning public nuisance and crime and disorder etc.

1.6 On receiving the first representation, the licensing officer attempted to negotiate a solution that was acceptable to both parties in order to dispel with the need for a Licensing sub-

committee hearing. The applicant offered to reduce the times for Licensing activities as follows:

Opening Hours	Timings	
	Everyday	07.00hrs – 00:30hrs
Licensable activity	Timings	
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Live music indoors	Everyday	08.00hrs - Midnight
Live music outdoors	Everyday	08:00hrs – 23:00hrs
Recorded music indoors	Everyday	08.00hrs - Midnight
Recorded music outdoors	Everyday	08:00hrs – 23:00hrs
Provision of performances of Dance (indoors and outdoors)	Everyday	07.00hrs - 00:30hrs
Late night refreshment (indoors and outdoors)	Everyday	23:00hrs - Midnight

These proposals were rejected by the original objector. In any case, further representations were received, hence the requirement for a licensing sub-committee hearing.

2 Representations

- 2.1. Each of the responsible authorities have been served a copy of the application, namely; the Police, Fire Authorities, Home Office, Trading Standards Department and the District Council's Health and Safety, Environmental Protection and Planning Sections. We have received one representation from a responsible authority - Environmental Protection on the grounds of public nuisance. This representation is presented as **Appendix 4**.

- 2.2 Other persons are able to make representations within 28 days of display of the notice of application to the Licensing Authority. Five representations have been received from other persons. A summary of the representations is outlined below and copies of all the representations from those persons are presented as **Appendices 5 - 10**.

Appendix No.	Name	Capacity	Licensing objective
Appendix 5 & Appendix 6	Declan Curzon-Hepworth	Local Resident	prevention of crime and disorder prevention of public nuisance
Appendix 7	Simon Garami	Local Resident	prevention of crime and disorder prevention of public nuisance
Appendix 8	Tanya Braybrooke	Local Resident	public safety prevention of public nuisance prevention of crime and disorder
Appendix 9	N S Botham	Local Resident	prevention of public nuisance
Appendix 10	Ellen Hill	Local Resident	prevention of public nuisance

3. Statutory Guidance

- 3.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 1.1 to 1.5, 2.1 to 2.6, 2.7 to 2.9, 2.15 to 2.21, 3.1 to 3.2, 3.11 to 3.20, 8.1 to 8.8, 8.41 to 8.49, 8.80 to 8.87, 9.1, 9.3, 9.31 to 9.44, 10.1 to 10.10, 10.13 to 10.14, 14.1 to 14.3, 16.1 to 16.19 and 16.26 to 16.48 may have a bearing upon the application.

4. Statement of Licensing Policy

- 4.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 2.1 to 2.5, 3.0, 4.1 to 4.4, 5.1 to 5.4, 6.1 to 6.4, 7.1 to 7.4, 11.0, 13.0, 19.2, 22.0, 23.0, and 26.0 may have a bearing upon the application.

5. Observations

- 5.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:
- a. The prevention of crime and disorder;
 - b. Public safety;
 - c. The prevention of public nuisance;
 - d. The protection of children from harm.

5.2 The Committee may take such of the following steps, if any, as it considers appropriate for the promotion of the licensing objectives:

- Grant the application and issue the premises licence as requested.
- Modify the conditions of the licence, by altering or omitting or adding to them.
- Reject the whole or part of the application.

5.3 There is a right of appeal to the Magistrates' Court against the decision of the Sub-Committee by the applicant and persons who made relevant representations.

Policies and other considerations, as appropriate	
Council Priorities:	Business and Jobs, Homes and Communities
Policy Considerations:	Statement of Licensing Policy – Issue 7
Safeguarding:	To determine the application in accordance with the Licensing Act 2003 objectives
Equalities/Diversity:	Equality Impact Assessment already undertaken, issues identified actioned
Customer Impact:	Not applicable
Economic and Social Impact:	Customers may be impacted by any decision made
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Leicestershire Police, Leicestershire Fire and Rescue Service, The Home Office, Trading Standards, Health and Safety, Environmental Protection, Licensing Authority, Planning, Health Authority and members of the public/local businesses by way of notice at the premises, in a local newspaper, on the Council's website and at the Council Offices, Coalville.
Risks:	The risk of incurring costs arising from an appeal against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.
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