

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL
LICENSING SUB COMMITTEE – 17 APRIL 2024



Title of Report	APPLICATION FOR GRANT OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003	
Presented by	Paul Dennis, Licensing Enforcement Officer	
Background Papers	Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk) Licensing Act 2003 (legislation.gov.uk) Statement of Licensing Policy – Issue 7 Statement of Licensing Policy 2024-2029 – Issue8	Public Report: Yes
Purpose of Report	<p>To determine an application for the grant of a premises licence in respect of The Flag, 32 Borough Street, Castle Donington, Derby, DE74 2LA.</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 Statement of Licensing Policy.</p>	
Recommendations	THAT THE SUB-COMMITTEE DETERMINES THE APPLICATION.	

1.0 Background

1.1 Christine Westbrook applied for the grant of a premises licence for The Flag, 32 Borough Street, Castle Donington, Derby, DE74 2LA on 6 March 2024. The application form is attached as **Appendix 1**.

- 1.2 The applicant has specified within their application the following times for licensable activity at the premises including any seasonal variations.

Licensable activity	Timings	
Supply by retail of alcohol	Sunday	12:00hrs - 22:00hrs
	Monday to Thursday	16:00hrs - 22:00hrs
	Friday	14:00hrs - 22:30hrs
	Saturday	12:00hrs - 22:30hrs
	May Market	12:00hrs - 23:30hrs
	The Wakes	12:00hrs - 23:30hrs
	Download Festival	12:00hrs - 23:30hrs
	Christmas Eve	12:00hrs - 23:30hrs
	New Year's Eve	12:00hrs - 23:30hrs

- 1.3 The applicant has specified within their application the following opening times for the premises.

Opening Hours	Timings	
	Monday to Thursday	16:00hrs - 22:30hrs
	Friday	14:00hrs - 23:00hrs
	Saturday to Sunday	12:00hrs - 23:00hrs

- 1.4 An aerial view of the site is attached as **Appendix 2**. A map of the site is attached as **Appendix 3**.

- 1.5 For information, as advised by the Planning Department, the current permitted planning permission times for operations or uses authorised at this site are:-

Between 1100hrs and 2230hrs Mondays to Thursdays;
 Between 1100hrs and 2300hrs Fridays and Saturdays;
 Between 1100hrs and 2230hrs Sundays and Bank Holidays (except New Years Eve); and
 Between 1100hrs and 0030hrs on New Years Eve.

2.0 Historical

- 2.1 A premises licence was originally issued on 17 February 2014. The premises licence was transferred to Mr Sandham (Christine Westbrook's partner) on 11 March 2015. Mr Sandham was made bankrupt in May 2023 and as a result, in accordance with the Licensing Act 2003, the premises licence lapsed. The previous premises licence for reference is attached as **Appendix 4**.

2.2 The previous licensable activity times were:-

Licensable activity	Timings	
Supply by retail of alcohol	Sunday	12:00hrs - 21:00hrs
	Monday to Friday	16:00hrs - 22:30hrs
	Saturday	12:00hrs - 22:30hrs
	New Years Eve	11:00hrs - 00:30hrs

2.3 The previous opening times were:-

Opening Hours	Timings	
	Sunday to Thursday	11:00hrs - 22:30hrs
	Friday and Saturday	11:00hrs - 23:00hrs
	New Years Eve	11:00hrs - 00:30hrs

2.4 The premises was formally reviewed in 2019 by the Fire Authority. The agenda and minutes for this review hearing are attached at the following link [Agenda for Licensing Sub Committee on Wednesday, 14th August, 2019, 6.30 pm - North West Leicestershire District Council \(nwleics.gov.uk\)](#)

2.5 The premises was formally reviewed in 2023 by the Licensing Authority , North West Leicestershire District Council. The agenda and minutes for this review hearing are attached at the following link [Agenda for Licensing Sub Committee on Wednesday, 1st November, 2023, 6.00 pm - North West Leicestershire District Council \(nwleics.gov.uk\)](#) Shortly after this hearing, it was discovered that Mr Sandham had been declared bankrupt and as a result, this hearing was considered “null and void”, since the premises licence had already lapsed.

2.6 The premises has a long list of previous issues Including numerous alleged instances of unlicensed activities, non-compliance with conditions including failing to provide CCTV footage evidence on many occasions, using street furniture continuously without the required consent, noise complaints and a Magistrates court hearing for failing to demonstrate Mr Sandham had taken steps to remove rubbish from the then Chequered Flag premises.

3.0 Representations

3.1 In respect of an application for the grant of a premises licence, the applicant is responsible for advertising the application by way of a notice in specified form at the premises for not less than 28 consecutive days and in a local newspaper. The applicant placed a notice in The Derby Telegraph on Friday, 15 March 2024 and officers are satisfied that the correct notices have been displayed at the premises.

3.2 Each of the responsible authorities have been served a copy of the application, namely; the Police, Fire Authorities, Home Office, Trading Standards Department, Health Authority and the District Council’s Health and Safety, Environmental Protection and Planning sections. Four representations

were received as follows. Licensing raised a representation on the grounds of the prevention of public nuisance, public safety and the prevention of crime and disorder. The representation is attached as **Appendix 5**. Environmental Protection raised a representation on the grounds of the prevention of public nuisance. The representation is attached as **Appendix 6**. Leicestershire County Council - Highways raised a representation on the grounds of Public Safety. This representation is attached as **Appendices 7-9**. Planning raised a representation. The representation is attached as **Appendix 10**.

3.3 Other persons are able to make representations within 28 days of display of the notice of application to the Licensing Authority. Two representations were received from members of the public on the grounds of the prevention of public nuisance. The representations are attached as **Appendices 11-14**.

3.4 Also received is a further 68 e-mails/contact messages supporting The Flag's Premises Licence Grant and/or Pavement Licence applications. They are attached as **Appendix 15**.

4.0 Statutory Guidance

4.1 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, 1.13, 2.1 to 2.14, 2.21 to 2.27, 3.1 to 3.2, 3.35, 8.3 to 8.14, 8.80-8.82, 9.1 to 9.12, 9.31 to 9.44, 10.1 to 10.10, 10.13-10.14, 14.1 to 14.3 may have a bearing upon the application.

5.0 Statement of Licensing Policy

5.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 1.5, 2.1, 2.3, 2.5, 2.6, 4.1 to 4.4, 5.1 to 5.4, 6.1 to 6.4, 12.0, 19.2, 22.0, and 25.0 may have a bearing upon the application.

Please note the Statement of Licensing Policy has changed since the submission of this application on 6 March 2024, hence there are two Statement of Licensing policies in the background papers. The paragraphs above refer to Issue 8 which is effective from 26 March 2024 – 25 March 2029.

6.0 Observations

6.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:

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

6.2 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.

6.3 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:	Communities and housing – looking after our tenants and keeping our communities safe
Policy Considerations:	Statement of Licensing Policy – Issues 7 & 8
Safeguarding:	To determine the application in accordance with the Licensing Act 2003 objectives
Equalities/Diversity:	No Equality/Diversity issues raised, though this will be kept under review.
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, on the Council's website.
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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