

SCARBOROUGH BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

14 JANUARY 2019

LICENSING ACT 2003

REPORT OF THE ENVIRONMENT AND REGULATION MANAGER - 19/011

on

APPLICATION FOR GRANT OF A CLUB PREMISES CERTIFICATE WHITBY BRUNSWICK CENTRE, BRUNSWICK STREET, WHITBY, YO21 1RB

1. PURPOSE OF REPORT

To seek the determination by the Licensing Sub-Committee of an application for the grant of a club premises certificate where one or more relevant representations has been received.

2. APPLICATION

- 2.1 An application for the grant of a club premises certificate has been received and is attached at **Appendix A**. Whitby Brunswick Centre is described as a registered charity offering a range of formal and informal educational and recreational activities with the addition of private evening functions.
- 2.2 The application seeks to include the following licensable actives:

| Activity | Hours requested |
|---|-----------------------------|
| Plays (indoors only) | Mon to Sun – 18:00 to 22:45 |
| Live music (indoors) | Mon to Sun – 18:00 to 22:45 |
| Recorded music (indoors only) | Mon to Sun – 18:00 to 22:45 |
| Performance of dance (indoors only) | Mon to Sun – 18:00 to 22:45 |
| Supply of alcohol (for consumption on the premises) | Mon to Sun – 18:00 to 22:45 |
| Hours open to the public | Mon to Sun – 18:00 to 22:45 |

2.3 Cumulative Impact Policy (CIP)

This premise is located within the cumulative impact zone. The effect of adopting the CIP is to create a presumption that new applications, variations or material variations will normally be refused if relevant representations are received. The burden of proof is shifted to the applicant to provide evidence that the premises will not add to the problems already generated by the concentration of licensed premises in that area.

2.4 Protection of Children from Harm

The applicant states that there will be no adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

2.5 Members are asked to note in particular paragraph 3.46 of the Council's Policy in that where an applicant states in the Operating Schedule that there is no adult entertainment or similar entertainment taking place at the premises, then the Licensing Authority shall consider this restriction to be a condition on the certificate even though it may not state this on the certificate itself.

2.6 Volunteered Operating Conditions

The applicant has volunteered the following licensing conditions as part of their application:

General

1. *Persons shall not be admitted to membership, or to any of the privileges of membership, without an interval of at least two days between their application for membership and their admission.*
2. *Any gains arising from the activities of the club shall be used for the benefit of the club as a whole or for the charitable purposes of the Whitby Brunswick Centre.*
3. *The finances of the club shall be managed by the treasurer, assisted by the Chair of the management committee.*
4. *Accounts and other records shall be kept on a monthly basis to ensure accuracy. A financial report shall be available to members and other interested parties on an annual basis.*
5. *The purchase and supply of alcohol by the club, shall be managed by the Management Committee of the Whitby Brunswick Centre who are aged over 18 years and elected by the members of the club.*
6. *Alcohol shall not be supplied to members on the premises otherwise than by or on behalf of the club.*

7. *No person shall receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases or supply of alcohol by the club.*
8. *Contact details of club members (which exceed 25 in number) shall be held securely by an appropriate member of the management committee.*
9. *All club members and guests must adhere to the club rules.*
10. *Club members shall not participate in behaviour or actions which may be deemed criminal or contribute to disorder whilst on the premises.*
11. *Club members shall not participate in behaviour or actions which could be deemed as contributing to a public nuisance.*

Premises Log Book

12. *Club members have an obligation to report matters of public safety to a member of staff. Such matters shall be recorded in the incident book, kept on the premises.*
13. *An incident book shall be maintained within which full details of all occurrences of disorder and refused alcohol sales at the premises must be recorded. The incident book shall be kept on the premises at all times and must be made available for inspection by the police.*
14. *Any incidents deemed harmful to children will be recorded in the incident book, kept on the premises and will be made available on request to the appropriate statutory body*

Children

15. *Club members have a duty of care to protect children from harm and shall report any suspicious matters to a member of staff. Such matters will be recorded in the incident book, kept on the premises.*

Safety & Security

16. *For planned events where it is a condition and necessary to provide door supervisors and security staff, these individuals must be licensed by the Security Industry Authority (SIA).*
17. *Door supervisors shall wear clothing that makes them clearly identifiable in that role.*
18. *No one carrying open or sealed bottles or glasses shall be admitted to the premises at any time.*
19. *No club members or guests shall be permitted to take open containers of alcoholic or soft drinks from the premises.*
20. *An appropriate method shall be used for checking the number of people entering and leaving the premises and ensuring that once the maximum occupancy is reached, no further persons are admitted.*

21. *The club premises certificate holder shall ensure that all staff receive appropriate training about emergency and general safety precautions and procedures.*
22. *All bottles and glasses and rubbish shall be removed from public areas on a regular and frequent basis.*
23. *All safety certificates and inspection reports shall be kept on site and made available for inspection by officers of relevant statutory bodies.*
24. *An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.*

Notices

25. *Prominent, legible notices requesting people to leave the premises and the area quietly shall be displayed at all exists.*
26. *The telephone numbers of local taxi operators shall be displayed at the premises for the benefit of club members.*

Training

27. *The club premises certificate holder shall ensure that all staff are aware of their social and legal obligations and their responsibilities regarding the sale of alcohol as stipulated in the club rules.*

Noise & Nuisance

28. *The club premises certificate holder, or authorised person, shall control the volume of regulated entertainment taking place at the premises.*
29. *All external doors and windows shall be kept shut, other than for access and exit, in all rooms when events involving amplified music or speech or other entertainment are likely to rise to noise.*
30. *To minimise the effect of littering, litter bins shall be provided both inside and directly outside the premises.*

Notices

31. *Restrictions on the admission of children to the club premises and events shall be displayed outside the premises.*

Adult Entertainment

32. *There shall be no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.*

3 REPRESENTATIONS

- 3.1 The Licensing Authority has received representations from members of the public which are attached at **Appendix B**.
- 3.2 The representations are in line with the following licensing objectives:
 - Prevention of Crime and Disorder

- Prevention of Public Nuisance
- Public Safety

3.3 The representations received are summarised as follows:

1. Brunswick Street is a residential street and conservation area.
2. Concerns over the safety of pedestrians and guests of the club.
3. That binge drinkers and other persons may congregate outside the premises causing a disturbance.
4. That there will be increased levels of noise and disturbance to local residents.
5. That there are already a large number of licensed premises in the local area already creating issues.
6. Concerns over the opening of a night club.
7. Concerns that loud live and recorded music creating a disturbance.
8. Concerns that deliveries may obstruct Brunswick Street.
9. That there will be noise created by cars dropping off and picking up customers.

3.4 Members should note that some of the grounds for the representations may not directly relate to the licensing objectives but have been included in the interests of openness and transparency.

4 LICENSING POLICY, CUMULATIVE IMPACT POLICY AND DCMS NATIONAL GUIDANCE

4.1 Members are referred to the Council's Licensing Policy which includes the Cumulative Impact Policies for Scarborough and Whitby Town centres adopted in November 2013, together with the Home Office Amended Guidance issued under s182 of the Licensing Act 2003.

5 OPTIONS

5.1 The Licensing Sub Committee has the following options:

- a) Reject the application
- b) Grant the certificate as per the application
- c) Grant the certificate as per the application with additional conditions, however Members should ensure that any additional conditions do not conflict with conditions offered in the Operating Schedule
- d) Exclude from the certificate a licensable activity

- e) Exclude from the certificate a licensable activity and include additional conditions, however, Members should ensure that any additional conditions do not conflict with conditions offered in the Operating Schedule.

6 DETERMINATION OF THE APPLICATION

- 6.1 Under section 17 of the Crime and Disorder Act 1998 (CDA), the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.
- 6.2 Members must also exercise their decision making powers in accordance with the provisions of the Human Rights Act 1998, and the principles of natural justice.
- 6.3 Members are invited to determine this application following consideration of the evidence presented to them. The procedure for this hearing is available on the Council's website.



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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

List of Background Papers:

Council's Statement of Licensing Policy

Licensing Act 2003

National Guidance issued Under Section 182 of the Licensing Act 2003

Relevant Regulations associated with the Licensing Act 2003

SCARBOROUGH BOROUGH COUNCIL

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The following papers were unable to be included in the electronic version of this document.

Appendices A - B are only available for the applicant in this matter as per Section 185 of the Licensing Act 2003.