

# Licensing Sub-Committee

16 October 2020

## New premises application, Hincknowle Barn, Melplash, Bridport

### For Decision

**Portfolio Holder:** Cllr J Haynes, Customer and Community Services

**Local Councillor(s):** Cllr A Alford

**Executive Director:** J Sellgren, Executive Director of Place

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**Report Status:** Public

**Recommendation:** The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

**Reason for Recommendation:** The Sub-Committee must take into account the oral representations and information given at the hearing.

### 1. Executive Summary

An application for a new premises licence has been made by Rupert Best and Thomas Best for live music, recorded music, late night refreshment and the supply of alcohol on and off the premises. Representations have been received and remain unresolved therefore a hearing by the licensing Sub-Committee must be held to determine the application.

### 2. Financial Implications

Any decision of the Sub-Committee could lead to an appeal by any of the parties involved that could incur costs.

### **3. Climate implications**

None.

### **4. Other Implications**

Public Health and Community Safety.

### **5. Risk Assessment**

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

### **6. Equalities Impact Assessment**

Not applicable

### **7. Appendices**

Appendix 1 – Premises licence application

Appendix 2 – Plan of the premises

Appendix 3 – Representation from Netherbury Parish Council

Appendix 4 – Representations from interested parties

### **8. Background Papers**

[Licensing Act](#)

[Live Music Act](#)

[Licensing Act 2003 \(Descriptions of Entertainment\) \(Amendment\) Order 2013](#)

[Section 182 Guidance](#)

[LGA Councillors Handbook](#)

[EHRC - Guide to the Human Rights Act for Public Authorities](#)

## 9. Details

9.1 An application has been received from Rupert and Thomas Best for a new premises licence at Hincknowle Barn, Hincknowle, Netherbury, Bridport, DT6 3UG to include:

- the supply of alcohol for on and off sales between 0900hrs and midnight, daily;
- regulated entertainment, indoor and outdoors (live and recorded music) between 2300hrs and midnight, daily;
- late night refreshment between 2300 and midnight, daily.

The full application is attached at Appendix 1.

The Live Music Act 2012 and the Legislative Reform (Entertainment Licensing) Order 2014 introduced section 177A to the Licensing Act and removed the need to have the activities of live and recorded music included in a licence that authorises the sale of alcohol between 8am and 11pm. The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 amended the Act to allow certain entertainment between 0800 and 2300hrs not to be classed as regulated entertainment and therefore need to be licensed.

9.2 The premises is described as a fruit farm growing cider apples, wishing to use the barn at the farm for small events, functions and retail sales, as well as other areas of the surrounding land. A Plan of the premises is attached at Appendix 2.

9.3 The application was received on 25 August 2020 with the statutory consultation period of 28 days ending on 21 September 2020.

9.4 No representations have been received from any of the Responsible Authorities. However, Environmental Health requested the following the condition be added to the licence:

The number of patrons on the premises, for the purposes of engaging in licensable activities, will not exceed 500 persons, at any one time.

The applicant has agreed to this condition being added to the premises licence if granted.

- 9.5 One representation has been received from Netherbury Parish Council who have stated that:

Protection of Children from Harm and Public Safety.

The roads around Hincknowle are narrow with no footpaths. An increase in traffic could increase the risk to public safety, particularly for pedestrians in and around the roads leading to the venue.

Their letter is attached at Appendix 3

- 9.6 There were two representations received from local residents, these are attached at appendix 4.
- 9.7 For representations to be relevant they must relate to both the proposed new licence application and any of the of the four licensing objectives of prevention of public nuisance, prevention of crime and disorder, public safety or the prevention of harm to children. There is reference within the representations that relate to increased traffic and the suitability of the highways in the area. Highway issues are not relevant under any of the licensing objectives and should not considered relevant to an application for a premises licence.

## **10. Considerations**

- 10.1 Paragraphs 9.42 – 9.44 of The Section 182 Guidance states that; -

“Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the

factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination”

## **11. Recommendation**

11.1 Having taken into account the representations and the evidence presented at the hearing, the Sub-Committee may;

- grant the licence subject to any conditions that are deemed appropriate
- exclude from the scope of the licence any of the licensable activities to which the application relates;
- refuse to specify a person in the licence as the premises supervisor;
- reject the application.

### **Footnote:**

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.