

Meeting:	Licensing Sub-Committee	Date:	4 October 2017
Subject:	Application under Section 17 of the Licensing Act 2003 by Matthew Bull for a new Premises Licence for 94 Eastgate Street, Gloucester, GL1 1QN		
Report Of:	Head of Place		
Wards Affected:	Westgate		
Contact Officer:	Richard Barnett – Licensing and Enforcement officer		
	Email:	Richard.Barnett@Gloucester.gov.uk	Tel: 396311
Appendices:	1. Application from Matthew Bull		
	2. Representation from Gloucestershire Constabulary		
	3. Representation from Alex Mason, Environmental Health Officer		
	4. Licensing Policy in respect of Cumulative Impact Zone		
	5. Procedure for Licensing Sub Committee		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To consider an application by Matthew Bull for a new Premises Licence in respect of 94 Eastgate Street, Gloucester, GL1 1QN. A copy of the application is attached in **Appendix 1**.

2.0 Recommendation

- 2.1 That members:

- (a) Consider the application, any relevant representations, the Licensing Objectives, the Council's Statement of Licensing Policy and National Guidance (Section 182).
- (b) Determine the following steps it considers necessary for the promotion of the licensing objectives:
- To grant the application as applied for,
 - To accept the application and modify the conditions of the licence, by altering or omitting or adding to them,
 - To reject the whole or part of the application.

3.0 Background

- 3.1 On 9th August 2017, the City Improvement and Environment Team received an application from Matthew Bull for a new Premises Licence.
- 3.2 The application contained all the requisite documentation including the fee.
- 3.3 It can be confirmed that the application has been advertised (A4 notice displayed on site and a Public Notice placed in the local newspaper) and that the application has been served on all Responsible Authorities.
- 3.4 The applicant is applying for the following hours:-

Licensable Activity	Application times
Retail Sale of alcohol	Monday to Sunday 11:00 – 02:00
Live music	Monday to Sunday 17:00 – 02:00
Recorded music	Monday to Sunday 11:00 to 02:00
Late Night Refreshment	Monday to Sunday 23:00 to 02:00

- 3.5 The original application specified all licensable activities to cease at 04:00. The applicant then emailed to confirm that he would like to reduce the hours of all the licensable activities to 02:00.
- 3.6 The applicant has listed conditions to support the Licensing Objectives which would be attached to the Premises Licence if granted. These conditions can be seen in Section 18 of the Premises Licence application form.
- 3.7 Members attention is drawn to pages 12 to 14 of the Council's Licensing Policy Statement which deals with the issue of cumulative impact and the Special Policy in respect of the Eastgate Street area. The Licensing Policy Statement can be seen in **Appendix 4.**
- 3.8 The effect of this Policy is to create a rebuttable presumption that application for new Premises Licenses, Club Premises Certificates or material variations will normally be refused if relevant representations are received. In essence the thrust of this Special policy is to ensure that premises licences are not issued to premises within the prescribed area which by their scope and nature could only serve to increase the problems already being experienced within that area. If, on the other hand, the applicant is able to demonstrate that the licence would not or is unlikely to add to the cumulative impact either by the nature of the premises or by the conditions placed upon the licence, the licence should be granted.

4.0 Representations

- 4.1 During the consultation period, the Premises Licence application has resulted in one representation from Gloucestershire Constabulary which was received on 29th August 2017. This representation was not accepted due to the incidents not being relevant as they took place in Cheltenham Borough.
- 4.2 The Police then submitted a second representation which was received on 5th September 2017. This can be seen attached as **Appendix 2**.
- 4.3 The representation relates to the Licensing Objective of The Prevention of Crime and Disorder and the Prevention of Public Nuisance.
- 4.4 A representation was received on 6th September 2017 from Alex Mason, Environmental Health Officer. This can be seen attached as **Appendix 3**.
- 4.5 Following discussions between the applicant and Alex Mason, the following conditions have been agreed:-
1. No outside area shall be used for the provision of Regulated Entertainment.
 2. External areas (front and rear) which the public have access to are to be regularly monitored by CCTV and the DPS. Prompt action is to be taken to ensure compliance with each of the Licensing Pillars (the prevention of crime and disorder, public safety, prevention of public nuisance, and the protection of children from harm).
 3. SIA door staff are to be utilised from 21.00hrs on Fridays & Saturdays until close (other evenings shall be assessed on a weekly basis as to the need for SIA Door Staff).
 4. The front beer garden is to be closed for public use from 23:00hrs daily except for access/ egress.
 5. All speakers are to be located in line with the attached plan titled 'License Plan Ground Floor' with no further amplification to take place i.e. extra speakers or bass boxes are not to be utilised on the premises.
 6. Performers/ Acts are to have no control over the amplified sound level. The DPS shall be responsible for ensuring compliance with the below condition.
 7. To prevent Regulated Entertainment from being intrusive, amplified sound emanating from the premises will not be clearly audible 1 metre from the façade of the nearest residential property.

5.0 Financial Implications

- 5.1 There are no direct financial implications associated with this report.
- 5.2 If any person is not happy with the decision of the Sub-Committee then an appeal to the Magistrates Court may result in costs awarded against the Council.

6.0 Legal Implications

- 6.1 The Licensing Sub-Committee is asked to determine this application with a view to promotion of 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 In making its decision, the Sub-Committee is also obliged to have regard to national guidance (Section 182) and the Council's own Licensing Policy. Members attention is drawn to Sections 3, 4, 5 and 6 of Gloucester City Council's Licensing Policy statement which outline the authority's policy with regard to the licensing objectives and Section 8 that refers specifically to the licensing hours.
- 6.3 The Sub-Committee must also have regard to the representations made and the evidence it hears and also be satisfied that:-
- the application is properly made
 - the application has given proper notice.
 - The applicant has satisfied the advertising requirements.
- 6.4 The Sub-Committee has powers to decide on either of the options set in paragraph 2.1 (b) of this report
- 6.5 The Sub-Committee has powers to adjourn or carry forward the hearing to additional specified dates.
- 6.6 For the purposes of determining an application, a "relevant representation" means a representation which:
- (a) Is relevant to one or more of the licensing objectives.
 - (b) Is made by a responsible authority or other persons within the prescribed period.
 - (c) Has not been withdrawn
 - (d) If having been made by a person who is not a responsible authority, that they are not in the opinion of the Licensing Authority frivolous or vexatious.
- 6.7 In deciding what action, if any, it should take, the Sub-Committee Members must direct their minds to the causes and concerns which the relevant representations identify. Any action should generally be directed to these causes and should always be no more than is a necessary and proportionate response. In particular, any detrimental financial impact of the Sub-Committee decision must be necessary and proportionate.

- 6.8 The Sub - Committee is required to have regard to the most up to date version of the Home Secretary's Guidance when making its decision. However the Guidance does not cover every possible situation, so long as Guidance has been followed properly and reason carefully understood, the Sub-Committee may depart from it. Full reasons must be given for any departure from the Home Secretary's Guidance.
- 6.9 Following the case of Daniel Thwaites v Wirral Borough Magistrates Court 2008 The Sub-Committee needs to avoid:
- Speculating on what might happen in the absence of evidence that harm would or could happen.
 - Not paying attention to Government Guidance where failing to follow it requires good reasons to be given.
 - Modifying or imposing conditions that do not promote the licensing objectives.
- 6.10 Where the Sub-Committee determines an application it must notify the following of its decision, and the reasons for it :
- The applicant.
 - The 'other person' who made the relevant representations.
 - The 'responsible authority' who made the relevant representation.
- 6.11 The Sub-Committee has its own procedure for determining applications which are attached to the report as **Appendix 5**.
- 6.12 In considering the application, the Sub-Committee is solely performing the role of the Licensing Authority. The Sub-Committee sits in a quasi-judicial capacity and must act impartially. It must offer a fair and unbiased hearing of the application.
- 6.13 There is a right of appeal to the Magistrates Court by any interested party within 21 days of the decision being notified.

7.0 Risk & Opportunity Management Implications

- 7.1 There is a right of appeal to the Magistrates Court for both the applicant and 'Responsible Authority'. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

8.0 People Impact Assessment (PIA):

- 8.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.
- 8.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

9.0 Other Corporate Implications

Community Safety

9.1 None at this stage

Sustainability

9.2 None at this stage

Staffing & Trade Union

9.3 None at this stage

Background Papers : Gloucester City Council Licensing Hearing Procedure

Published Papers : Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005 Gloucester City Council Licensing Policy Statement Home Secretary (Home Office) Guidance issued under section 182 of the Licensing Act 2003 (June 2014) and Daniel Thwaites v Wirral Borough Magistrates Court (2008)