

Licensing & Regulatory Sub-Committee

28 May 2019

Name of Cabinet Member:

Not applicable

Director Approving Submission of the report:

Deputy Chief Executive Place

Ward(s) affected:

St Michaels

Title: Application for a Premises Licence under the Licensing Act 2003

Is this a key decision?

No

Executive Summary:

The purpose of this report is to consider an application for a New Premises Licence under the Licensing Act 2003 for Swan Lane Express, 180 Swan Lane, Coventry, CV2 4GB.

Recommendations:

The Sub-Committee is recommended to consider whether to:

1. Grant the application as requested
2. Grant the application subject to such conditions that are necessary to promote the Licensing Objectives
3. Refuse the application wholly or in part where it is necessary in order to promote the Licensing Objectives

List of Appendices included:

1. Premises Licence Application
2. DPS Consent Form
3. Plan of Premises
4. Representations
5. Conditions Agreed with EP
6. Location Plan
7. Hearing Procedure Note
8. Relevant Hearing Briefing note

Background papers:

Section 182 Licensing Act 2003 Guidance

It is a statutory obligation of the Sub-Committee to take into account the Government's Guidance to the Licensing Act 2003 before reaching a decision.

Statement of Licensing Policy

The Council will have regard to the policy when making a decision on applications made under the Act

Other useful documents

None

Has it been or will it be considered by Scrutiny?

No

Has it been, or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

1. Context (or background)

- 1.1 The Licensing Act 2003 requires Coventry City Council, as the Licensing Authority, to carry out its various licensing functions so as to promote the following four Licensing Objectives:
- The Prevention of crime and disorder
 - The Protection of public safety
 - The Prevention of public nuisance
 - The Protection of children from harm
- 1.2 A Premises Licence application for Swan Lane Express was received on 29th March 2019. The application is requesting the sale/supply of alcohol (Off Sales) from Sunday to Thursday 07.00hrs – 02.00hrs, Friday & Saturday 07.00hrs – 04.00hrs. Please note the application has been amended during the consultation process to reduce the hours for the sale/supply of alcohol (outlined in paragraph 3.4).
- 1.3 Five representations from two Ward Councillors and three members of the public have been received to the application (outlined in paragraph 3.3).
- 1.4 In addition to the mandatory conditions, the Sub-Committee should refer to the operating schedule detailed in the application (Appendix 1), which will be attached as conditions to the licence should it be granted.
- 1.5 The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' which sets out the policies the Council will have regard to and apply to promote the Licensing Objectives when making a decision on applications made under the Act. The policy will be available at the hearing for reference purposes.
- 1.6 It is essential that the Sub-Committee takes into account the government's guidance to the Licensing Act before reaching a decision. The applicant, responsible authorities, or any other persons, should bring to the Sub-Committee's attention any relevant paragraphs. However, it is suggested good practice for Members of the Sub-Committee to read the relevant paragraph(s) of the guidance prior to the hearing.

2. Options considered and recommended proposal

- 2.1 There are three courses of action available to the Sub-Committee in relation to this application:
- (i) Grant the application as requested. If the Sub-Committee consider that granting the application would not undermine any of the Licensing Objectives, it should be granted in full as submitted. This would be granted subject to mandatory conditions and conditions consistent with the applicant's operating schedule, and any other conditions agreed by the applicant as part of the consultation / mediation process. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.
- (ii) Grant the application as above, but the Sub-Committee could impose extra conditions as it thinks fit, or make amendments to the operating schedule conditions, and/or proposed hours. This option may include adding any conditions suggested by other parties at the hearing, including the applicant. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.

(iii) If the Sub-Committee concludes that no additional conditions would ensure that the Licensing Objectives would be upheld, then the whole application should be rejected.

2.2 Your Officer recommends option (ii).

The reason for this recommendation is that a reduction of operating hours and an additional condition relating to customers leaving the premises quietly has been agreed by the applicant following mediation with EP. However a mediation meeting between the objectors and the applicant was not accepted, therefore additional conditions and changes to the operating schedule may be desirable following full consideration of the application by the Sub-Committee. The Sub-Committee may decide to grant the application subject to further conditions and/or amendments to the operating schedule and if problems do occur then the Review procedure is available to both responsible authorities and any other persons.

2.3 The Sub-Committee are advised that they may depart from the Officer recommendation if, having heard all the evidence, they believe it is appropriate to do so. Should the Sub-Committee decide to depart from the recommendation and choose an alternative option, they must provide full reasons for this decision, based on the promotion of the Licensing Objectives. This application should be considered on its own merits and all the circumstances taken into account before a decision is made.

2.4 The Sub-Committee must also be aware that licences can be reviewed at any time by any Responsible Authority or any 'other person', if it is considered that any of the Licensing Objectives have been undermined following the grant of the Premises Licence.

3. Results of consultation undertaken

3.1 As prescribed by the Licensing Act 2003, the application has been out for consultation to statutory consultees (Responsible Authorities) and any other persons for 28 days in the form of a notice displayed on the premises, and a notice published in a local newspaper.

3.2 Responsible Authorities have received a copy of the application. Please see below responses received:

Responsible Authority	Response Received	Objections	Conditions Agreed
Licensing	No	No	-
Police	Yes	No	-
Environmental Protection	Yes	No	Yes
Fire Safety	No	No	-
Health & Safety	No	No	-
Trading Standards	Yes	No	-
Planning	No	No	-
Safeguarding Children	Yes	No	-
Public Health	No	No	-
Secretary of State	No	No	-

3.3 Five representations have been received to the application, two from Ward Councillors and three from members of the public (Appendix 4). The grounds for the representations are that the granting of a Premises Licence would undermine the licensing objectives of Public Nuisance, Crime and Disorder and Protection of Children from Harm. The representations note that the granting of the licence would lead to an increase in anti-social behaviour and criminal activity.

- 3.4 During the consultation period, mediation between Environmental Protection and the Applicant has resulted in the Applicant agreeing to reduce trading hours as follows: Sunday to Thursday, 08:00hrs to 23:00hrs. Friday and Saturday, 08:00hrs to 00:00hrs (midnight), and to agree the following condition:

Clear and prominent notices shall be displayed at the exit(s) requesting customers to leave the area in a quiet and orderly manner.

- 3.5 Mediation was offered to the objectors, but this offer has not been accepted by any of the Objectors.

4. Timetable for implementing this decision

- 4.1 The Appeal period is 21 days from the applicant and objectors being notified of the decision.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no financial implications arising directly from this report. However, there are possible cost implications if an appeal against the decision is made to the Magistrates Court and the decision of the Sub-Committee is not upheld.

5.2 Legal implications

The Licensing Act 2003 sets out how applications for Premises Licences should be dealt with where valid representations have been submitted. The Sub-Committee have to decide the outcome of the application taking into account the Licensing Objectives.

In accordance with the provisions of the Act, if a Licensing Authority rejects in whole or in part, an application to grant a Premises Licence the applicant may appeal against the decision, to a Magistrates' court within 21 days of being notified of the decision.

Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted or that alternative or additional conditions should have been imposed on the licence, they may appeal against the decision, to a Magistrates' court within 21 days of being notified of the decision.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. The business' failure to uphold the Licensing Objectives may have an adverse effect on Public Safety and citizen's quality of life.

6.2 How is risk being managed?

If the application is not handled in line with the Licensing Act 2003, there is a risk of judicial appeals, reviews and associated costs.

6.3 What is the impact on the organisation?

None

6.4 Equalities / EIA

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the West Midlands Police, Community Safety Partnership, local people and those involved in child protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined.

Report author(s):

Name and job title: Billy Rawlings, Licensing Officer

Directorate: Place

Tel: 024 7697 2247

email contact: billy.rawlings@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor / approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Usha Patel	Governance Services Officer	Place	07.05.2019	07.05.19
Davina Blackburn	Regulatory Services Manager	Place	03.05.19	07.05.19
Tracy Miller	Head of Planning & Regulation	Place	08.05.19	10.05.19
Names of approvers for submission: (Officers and Members)				
Cath Crosby	Finance	Place	07.05.19	08.05.19
Amy Wright	Legal	Place	07.05.19	07.05.19
Andrew Walster	Director	Place	08.05.19	08.05.19

This report is published on the council's website:

www.coventry.gov.uk/councilmeetings