

**REPORT TO THE LICENSING SUB-COMMITTEE – 18<sup>TH</sup> AUGUST 2022****APPLICATION FOR THE GRANT OF A PREMISES LICENCE -  
DRUNKEN COW, WALSALL HOUSE, 24 GODSTONE ROAD,  
LINGFIELD, RH7 6BW**

Report of:	Ian Garrod, Licensing Officer - Tel: 01883 732794 <a href="mailto:licensing@tandridge.gov.uk">licensing@tandridge.gov.uk</a>
Purpose of Report:	<p>An application has been made for a premises licence at Drunken Cow, Walsall House, 24 Godstone Road, Lingfield, RH7 6BW under the Licensing Act 2003 ('the Act'). During the consultation period representations were received from Lingfield Parish Council and from several residents in respect of the application.</p> <p>The representations received have raised concerns that the licensing objectives under the Act have not been met. Where representations are received, a Licensing Sub-Committee must consider the application (S18(3) of the Act). The Sub-Committee, when considering such applications, shall carry out its function under the Act with a view to the Council's Licensing Policy, Statutory Guidance and promoting the licensing objectives.</p>
Publication status:	Unrestricted.
Recommendations:	<p>That, in accordance with its delegated powers, the Sub-Committee either:</p> <ul style="list-style-type: none"><li>(a) grants the licence, subject to the conditions as consistent with the operating schedule accompanying the application, and as modified by agreement with the applicant, and the objector, or modified to such extent as the authority considers appropriate for the promotion of the licensing objectives;</li><li>(b) excludes from the scope of the licence any of the licensable activities to which the application relates;</li><li>(c) refuses to specify a person in the licence as the premises supervisor; or</li><li>(d) rejects the application.</li></ul> <p>Members of the Licensing Sub-Committee are asked to decide at the end of the Hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.</p>
Appendices:	<ul style="list-style-type: none"><li>A Application for the Grant of a Premises Licence (page 9)</li><li>B Current Plan of the Premises (page 27)</li><li>C Ordnance Survey map of the area around the Drunken Cow (page 29)</li><li>D Representations from Lingfield Parish Council (page 31)</li><li>E Representations from Members of the Public (page 37)</li><li>F Notice of amendment to reduce the hours applied for (page 45)</li><li>G Relevant sections of Guidance issued under Section 182 of the Licensing Act 2003 (page 47)</li><li>H Relevant sections of the Council's Licensing Policy (page 55)</li></ul>

## 1 Purpose of Report

- 1.1 The supply of alcohol, regulated entertainment and late night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the District.
- 1.2 The Licensing Sub-Committee (“the Sub-Committee”) is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.
- 1.3 In accordance with the provisions of Section 18(3) of the Licensing Act 2003, the licensing authority must hold a hearing to determine an application for the grant of a premises licence where relevant representations have been made and not withdrawn.
- 1.4 The Council must consider any representations made; providing that the representations are relevant to the promotion of the licensing objectives and in the case of those made by other persons are not frivolous or vexatious.

## 2 Background Information

- 2.1 Walsall House, 24 Godstone Road, Lingfield, RH7 6BW, is closed and was formerly a coffee shop in a parade of shops based beneath residential properties and the applicant wishes to turn the Premises into a delicatessen with the capability of selling alcohol for consumption on the premises.
- 2.2 The application for a Premises Licence was received on 30<sup>th</sup> June 2022 was made by Vino V Ltd, 7 Druids Way, Bromley, Kent, BR2 0NQ.
- 2.3 The application is for:-
  - On sales of Alcohol between the hours of 1000 – 2100 Monday to Thursday, 1000 – 2300 Friday & Saturday, 1000 – 2000 Sundays (Now revised on Fridays & Saturdays to 1000 – 2200);
  - A copy of the Application is attached at **Appendix ‘A’** and a copy of the proposed premises plan is attached as **Appendix ‘B’**.
- 2.4 The position of the Premises is shown at **Appendix ‘C’** on a map of the area.

## 3 Consultation

- 3.1 The application for a new Premises Licence has been served on all the responsible authorities and it is confirmed that statutory notices were displayed on the site. The application was available to view by members of the public on the Councils website.
- 3.3 An objection from Lingfield Parish Council was received see **Appendix ‘D’**.

- 3.4 9 objections from members of the public were received. One has since withdrawn. (see **Appendix 'E'**).

<b>Objectors Name</b>	<b>Grounds</b>
Ms Sarah Carr	Prevention of Public Nuisance
Mr Martin & Mrs Claudette Edwards	Protection of Children, Prevention of Crime & Disorder, Prevention of Public Nuisance
Ms. Venetia Jagoe	Protection of Children, Prevention of Public Nuisance
Mr Andrew Lawrence	Prevention of Public Nuisance
Mrs Sara Nogosek	Prevention of Public Nuisance
Ms Philippa Osterfield	Prevention of Public Nuisance
Mr Rod & Mrs Gillian Shorey	Protection of Children, Prevention of Crime & Disorder, Prevention of Public Nuisance
Dr Graham Staunton	Prevention of Public Nuisance

- 3.5 The matter in the application being objected to is under mainly public nuisance noise and disturbance to the area and in local residents gardens by customers of the premises but other Licensing objectives Protection of Children from Harm are also mentioned in the Prevention of public Nuisance aspect and prevention of Crime and disorder with regards to drunkenness and its associated anti-social behaviour.
- 3.6 No Letters of Support for the application have been received.
- 3.8 Mediation between the applicant and persons who have submitted representations has been unsuccessful.

#### 4 Policy & Guidance – Points For Consideration

##### 4.1 **Section 182 Guidance**

The Sub-Committee must have regard to the Secretary of States Guidance issued under S182 of the Licensing Act 2003 in April 2018, and pay particular attention to the following paragraphs: -

Chapter 1	Para's 1.2-1.5; 1.9; 1.16; 1.17; 1.19
Chapter 2	Para's 2.1–2.6; 2.15–2.21
Chapter 8	Para's 8.41–8.49; 8.78
Chapter 9	Para's 9.31–9.44
Chapter 10	Para's 10.10; 10.13-10.15
Chapter 13	Para 13.10
Chapter 16	Para's 16.6; 16.26; 16.28; 16.33; 16.36-16.41; 16.55; 16.56

The relevant sections of Section 182 Guidance are provided at **Appendix 'G'** to this Report.

## 4.2 Tandridge District Council – Licensing Policy

The main sections of the Councils Licensing Policy which are particularly relevant to the Sub-Committees decision are set out below and should be considered when determining this application:

- 4 Fundamental principles
- 5 Decision making process
- 7 Premises licences
- 9 The prevention of crime and disorder
- 10 Public safety
- 11 Prevention of public nuisance
- 12 Prevention of harm to children

The relevant sections of Tandridge District Council Licensing Policy are provided at **Appendix 'H'**.

## 5 Determination

5.1 The Sub-Committee is requested to determine the application in line with Section 5 below, giving full reasons for the decision.

5.2 In determining the application, Members must have regard to the four licensing objectives on which the Licensing Act 2003 is based. These are: -

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

Councillors must have consideration to the representations and take such steps it considers appropriate for the promotion of the licensing objectives.

5.3 In achieving this the Sub-Committee shall disregard information which is not relevant to the application or the promotion of the licensing objectives, and give appropriate regard and weight to evidence i.e. direct evidence is better than circumstantial hearsay (although hearsay is admissible).

## 6 Legal Considerations

6.1 When considering this matter, Members must have regard to government guidance. This makes it clear that that the four licensing objectives should be “paramount at all times”. (Home Office Guidance 1.4). Where there are objections to an application, the sub-Committee must have regard to these and to the “likely effect” on the licensing objectives of granting the application.

6.2 It is a fundamental principle of the Licensing Act that each application must be considered on its own merits. (Guidance 1.17).

- 6.3 If Members, having considered the application, believe that extra measures are required in order to promote the licensing objectives, it may attach additional conditions to the licence provided that these are appropriate, reasonable and proportionate or it may alter or amend any existing conditions. The Sub-Committee must not impose conditions which would be beyond the control of the licence holder. (Guidance 1.16). The sub-Committee should also avoid imposing any conditions which would duplicate other statutory regulations (e.g. Health & Safety legislation, fire regulations, planning).
- 6.4 The Sub-Committee is advised to take the above matters into consideration when reaching their decision. Members are reminded that they should not consider any irrelevant matters and must confine their deliberations solely to the issues relating to the licensing objectives.
- 6.5 Under Section 18(4) of the Act, when determining this application, the Sub-Committee must – having regard to the representations received - take such steps as it considers appropriate to promote the licensing objectives.
- 6.6 The options are:
- To grant the licence subject to –
    - The conditions mentioned in the operating schedule modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and
    - Any condition which must under section 19, 20 or 21 be included in the licence;
  - To exclude from the scope of the licence any of the licensable activities to which the application relates;
  - To refuse to specify a person in the licence as the premises supervisor;
  - To reject the application.
- 6.7 In determining the application, the Sub-Committee must give appropriate weight to:
- evidence presented at the hearing;
  - Guidance issued by the Home Office under s.182 of the Act;
  - the Council's Statement of Licensing Policy;
  - any advice given by the Council's Legal Advisor during the hearing.
- 6.8 It is considered inappropriate for Officers involved in the administration of applications to make recommendations. However, Officers may request conditions be imposed on a licence and make recommendations with regard to the licensing objectives
- 6.9 Any party to the hearing may appeal to the Magistrates' Court against the decision of the Licensing Sub-Committee. The appeal must be made within 21 days of the date of notification of the Sub-Committee's decision.
- 6.10 The Sub-Committee must give full reasons for its decision.

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