

<b>REPORT TO:</b>	LICENSING ACT 2003 SUB-COMMITTEE
<b>DATE:</b>	31 AUGUST 2023
<b>SUBJECT:</b>	<b>APPLICATION FOR A PREMISES LICENCE – THE BLIND TIGER BAR, 1-2 PAWNSHOP PASSAGE, MERCER ROW, LOUTH, LN11 9JQ (J AND L BEETON LIMITED)</b>
<b>PURPOSE:</b>	This Report considers an application by J and L Beeton Limited for a premises licence in respect of The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ.
<b>REPORT OF:</b>	Group Manager Public Protection.
<b>REPORT AUTHOR:</b>	Mr Adrian Twiddy (Principal Licensing Officer)
<b>WARD(S) AFFECTED:</b>	Louth
<b>EXEMPT REPORT?</b>	The content of this Report is not exempt from publication.  However, unredacted copies of the local resident representations will be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report. The unredacted copies are exempt from publication by virtue of Paragraph 1 of Part I of Schedule 12A of the Local Government Act 1972.

## **SUMMARY**

This Report considers an application by J and L Beeton for a premises licence in respect of The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ. The premises licence application seeks the provision of the sale of alcohol (for consumption on and off premises) during the following hours:

- Monday to Thursday - 1100 to 2300 Hours
- Friday & Saturday - 1100 to 0100 Hours
- Sunday - 1100 to 2300 Hours
- New Year's Day All Day
- Until 0100 on the day following a Sunday and Monday of any Bank or Public Holiday weekend, and until 0100 the day following Christmas Eve, Boxing Day, Valentine's Day, and Halloween.

There are similar hours in the licence application for the provision of regulated entertainment and the provision of late-night refreshment.

Two representations, objecting to the content of the licence application, have been received by the Licensing Authority from local residents.

## **RECOMMENDATIONS**

The Sub-Committee must consider the application for a premise licence and having regard to the representations made by the local residents, take such of the steps mentioned below (if any), as they consider appropriate for the promotion of the licensing objectives.

The steps are:

- To grant the licence subject to:
  - a) Conditions consistent with the operating schedule accompanying the application, which have been modified to such extent as the Licensing Authority considers appropriate for the promotion of the licensing objectives, and
  - b) Any mandatory licence conditions.
    - To exclude from the scope of the licence any licensable activities to which the application relates.
    - To reject the application.

If none of the above steps are considered appropriate the premises licence application should be granted in the form it was made.

## **REASONS FOR RECOMMENDATIONS**

The Licensing Authority has a duty to consider the status of premises licence applications where relevant representations have been submitted by Other Parties (e.g. local residents).

All parties within the licensing process must seek to promote the licensing objectives as defined under the Licensing Act 2003.

The Sub-Committee must consider the application for a premises licence and having regard to the application and the representations, take such steps as it considers appropriate for the promotion of the licensing objectives.

## **OTHER OPTIONS CONSIDERED**

Not Applicable - Under the terms of the Licensing Act 2003 this Authority must consider the premises licence application and the representations submitted by the Other Parties.

## **1. BACKGROUND**

### **1.1. Premises Licence Applicant: J and L Beeton Limited**

**Application:** The application is for a premises licence under Section 17 of the Licensing Act 2003.

**Premises:** The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ.

**Designated Premises Supervisor (DPS):** The proposed DPS for the site is Ms Leah Beeton whose personal licence was issued by this Authority in May 2023.

**Licence Holder's Representative:** Mr Michael Kheng of Kurnia Licensing Consultants.

**1.2.** The licence applicant is proposing to operate a new bar on Pawnshop Passage, Louth. The site has not previously held an alcohol premises licence with this Authority. A plan showing the location of the premises can be found at **Appendix A** of this Report. Plans showing the internal layout of the premises can be found at **Appendix B**. Photographs, showing the front of the premises and the immediate surrounding area of the premises, are shown at **Appendix C**.

## **2. REPORT**

**2.1.** The premises licence application seeks the provision of the sale of alcohol (for consumption on and off premises) during the following hours:

### **Sale of Alcohol**

- Monday to Thursday - 1100 to 2300 Hours
- Friday & Saturday - 1100 to 0100 Hours
- Sunday - 1100 to 2300 Hours
- New Year's Day All Day
- Until 0100 on the day following a Sunday and Monday of any Bank or Public Holiday weekend, and until 0100 the day following Christmas Eve, Boxing Day, Valentine's Day, and Halloween.

The proposed hours for the provision of regulated entertainment and the provision of late-night refreshment are:

### **Late Night Refreshment (Indoors)**

- Friday and Saturday – 2300 to 0100 Hours

### **Films, Anything of a Similar Description to Live Music, Recorded Music or Performances of Dance (Indoors)**

- Monday to Thursday - 1100 to 2300 Hours
- Friday & Saturday - 1100 to 0100 Hours
- Sunday - 1100 to 2300 Hours
- New Year's Day All Day
- Until 0100 on the day following a Sunday and Monday of any Bank or Public Holiday weekend, and until 0100 the day following Christmas Eve, Boxing Day, Valentine's Day, and Halloween.

### **Live Music, Recorded Music, Performances of Dance (Indoors)\***

- Monday to Thursday - 1100 to 2300 Hours
- Friday & Saturday - 1100 to 0100 Hours
- Sunday - 1100 to 2300 Hours
- New Year's Day All Day
- Until 0100 on the day following a Sunday and Monday of any Bank or Public Holiday weekend, and until 0100 the day following Christmas Eve, Boxing Day, Valentine's Day, and Halloween.

*\* NB – This activity is exempt from licensing during the period 0800 to 2300 Hours – See Paragraphs 2.9 to 2.11 of this Report.*

### **Opening Hours of the Premises**

- Monday to Thursday - 1100 to 2330 Hours
- Friday & Saturday - 1100 to 0130 Hours
- Sunday - 1100 to 2330 Hours
- New Year's Day All Day
- Until 0130 on the day following a Sunday and Monday of any Bank or Public Holiday weekend, and until 0130 the day following Christmas Eve, Boxing Day, Valentine's Day, and Halloween.

*NB – The applicant has indicated on the licence application form that the above hours applied for do not mean that the premises will always operate the activities until the terminal hour seven days a week.*

- 2.2. Under the terms of the Licensing Act 2003, the operating schedule forms a part of the premises licence application. The operating schedule outlines what activities are proposed, when these activities will take place, the overall opening hours and how the activities will be managed, particularly in respect of the licensing objectives. One of the most critical parts of the operating schedule is the section where the applicant describes the steps intended to promote the four licensing objectives.
- 2.3. Following discussions with Lincolnshire Police, the licence applicant has volunteered licence conditions in the operating schedule regarding the provision of CCTV within the premises, use of a Challenge 21 Proof of Age Scheme, staff training, notices asking customers to leave the premises quietly and the maintenance of sale refusal and incident logs. These are all best practice measures recommended in this Authority's Licensing Policy. A copy of the volunteered licence conditions (detailed in the operating schedule) is attached to this Report at **Appendix D** – these are the steps the applicant will undertake to promote the licensing objectives.
- 2.4. The Licensing Act 2003 requires that the premises licence application is advertised in the local newspaper and also outside the premise. The Licensing Team has seen evidence of the display. Details of the application were also displayed on the Council's website. Persons, including those living and/or operating businesses in the vicinity of the premise, and the Responsible Authorities (e.g. Lincolnshire Police, Trading Standards, Health and Safety, etc.), were permitted to submit representations regarding the licence application.

Any representation must relate to one or more of the licensing objectives. The licensing objectives are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm

2.5. **Details of Relevant Representations:** There were no representations received from the Responsible Authorities. Two representations, objecting to the content of the licence application, have been received by the Licensing Authority from local residents. Suitably redacted copies of the representations can be found at **Appendix E** of this Report – signatures, email addresses, telephone numbers and residential addresses have been removed from the copies. The representations have been received from:

- Ms Wendy Becker
- Ms Mary Abbott on behalf of Ms Emily Farrar

In summary, the above parties' representations relate to concerns regarding noise nuisance, general nuisance and antisocial behaviour in the area of Pawnshop Passage, Louth. Both of the representations ask the Sub-Committee to consider a restriction in hours at the premises. However, in relation to licensing hours for regulated entertainment Officers would remind Members of the licensing exemptions detailed in Paragraphs 2.9 to 2.11 of this Report. At the licensing hearing the Licensing Team will provide the Members of the Sub-Committee with a plan showing the location of Ms Becker's and Ms Farrar's residences.

2.6. Unredacted copies of the representations will be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report. Copies of any evidence pack, submitted by premises licence applicant, in support of their case will also be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report.

2.7. The Licensing Authority did receive a third representation from a local business, regarding the premises licence application, however, that representation was withdrawn following discussions with the Council's Licensing Team.

2.8. **Lincolnshire Police:** Lincolnshire Police have not made a representation in relation to the premises licence application. However, the licence application and its proposed conditions have been subject of discussions and agreement between the applicant and the Police.

2.9. **Live Music and Recorded Music Licensing Exemptions** – There are licensing exemptions for live music and recorded music. Live amplified music in on-licensed premises authorised and open for the sale of alcohol does not require a premises licence for audiences up to 500 people until 2300 Hours. Recorded music in on-licensed premises benefits from the same licensing exemption as live music above, with the same audience limit. This covers both DJs and discos. Further detailed information, regarding such licensing exemptions, can be found in the note at **Appendix F** of this Report.

2.10. If the premises licence application is granted the Blind Tiger Bar will meet the above qualifying criteria – therefore, any conditions attached to the premises licence (if granted), regarding live and/or recorded music, will be suspended for any such music before 2300 Hours and will not need to be complied with, by the licence holder.

2.11. **Performance of Dance Licensing Exemption** - Dance Performances between 0800 and 2300 Hours for audiences of no more than 500 people in any location are also exempt from licensing. But this does not apply to dance performances of an adult nature.

2.12. **Guidance Issued by the Home Office Under Section 182 of the Licensing Act 2003:** It is considered that the extracts from the national guidance to Licensing Authorities, shown at **Appendix G** of this Report, have a bearing upon the premises licence application.

2.13. **Local Policy Considerations:** It is considered that the extracts from the Council's Local Statement of Licensing Policy, shown at **Appendix H** of this Report, have a bearing upon the premises licence application.

### **3. CONCLUSION**

3.1. The Licensing Act 2003 sets out options which the Licensing Authority can utilise in order to promote the licensing objectives following the consideration of a premises licence application which has received relevant representations. Any step taken by the Licensing Authority must be appropriate for the promotion of the licensing objectives. The licensing objectives are detailed in Paragraph 2.4 of this Report.

3.2. The steps open to the Sub-Committee include refusing to grant a premises licence. Alternatively, there is the option of modifying the conditions of the licence application. Such a step or any other amendment to the licence application must only be taken if the Sub-Committee are persuaded that there is clear potential for harm resulting from the use of the premises in the licence application's current form. If the Sub-Committee considers that there is no potential for harm and no steps are necessary, then the licence application should be granted in the form it was made.

3.3. The Sub-Committee should examine the potential for harm and if it is satisfied that this is real, it should take sufficient and reasonable measures to prevent this harm from occurring. The Sub-Committee should only refuse the licence application if it is of the opinion that no lesser step would ensure compliance with the licensing objectives.

### **EXPECTED BENEFITS TO THE PARTNERSHIP**

Not Applicable.

### **IMPLICATIONS**

#### **SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP**

There are no SELCP implications.

## **CORPORATE PRIORITIES**

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors and business community.

## **STAFFING**

The processing of this premises licence application is being undertaken as part of the normal duties carried out by the Licensing Team and so there are no staffing implications.

## **CONSTITUTIONAL AND LEGAL IMPLICATIONS**

1. The Sub-Committee must consider the application for a premise licence and having regard to the representations, take such of the steps mentioned below (if any), as they consider appropriate for the promotion of the licensing objectives.

2. The steps are:

- To grant the licence subject to:

a) Conditions consistent with the operating schedule accompanying the application, which have been modified to such extent as the Licensing Authority considers appropriate for the promotion of the licensing objectives, and

b) Any mandatory licence conditions.

- To exclude from the scope of the licence any licensable activities to which the application relates.
- To reject the application.

If none of the above steps are considered appropriate the application should be granted in the form it was made.

3. Both the applicant and any person making relevant representations may appeal any decision made by the Sub-Committee to the Magistrates Court. On determining an appeal, the Court may:

- Dismiss the appeal.
- Substitute for the decision appealed any other decision which could have been made by the Licensing Authority, or
- Remit the case to the Licensing Authority to dispose of in accordance with the direction of the Court.

4. The conditions of the licence are modified if any of them are altered or omitted or any new condition is added. Conditions can only be attached to a premises licence if they are considered appropriate for the promotion of the licensing objectives.

5. If consideration is being given to attaching / amending conditions, Members should consider, are the proposed conditions:

- Appropriate;
- Relevant;
- Relevant to the activity/premises/venue;
- Enforceable;
- Precise;
- Reasonable, and

- Achievable.

Any conditions must be well drafted in order to ensure all parties understand what is required by the condition.

6. The breach of a premises licence condition is an offence punishable (if the Licensing Authority or Lincolnshire Police are minded to prosecute) by an unlimited fine and/or six months imprisonment.

## **DATA PROTECTION**

The contact and address details (in this Report pack) relating to the persons submitting representations have been redacted for data protection purposes.

## **FINANCIAL**

As with all licence applications it is possible that if a Licensing Committee decision is appealed to the Magistrates Court and the appeal is upheld, costs may be awarded against the Council. However, the judgement of the Courts is that costs should not normally be awarded against the Local Authority provided the Authority has acted properly and reasonably.

## **RISK MANAGEMENT**

There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters.

## **STAKEHOLDER / CONSULTATION / TIMESCALES**

The representations from the local residents were received within the requisite 28-day period.

## **REPUTATION**

There is a risk that the Council's reputation could be damaged if licensing legislation and guidance are not upheld and applied appropriately.

## **CONTRACTS**

Not Applicable.

## **CRIME AND DISORDER**

All Local Authorities must fulfil their obligations under Section 17 of the Crime and Disorder Act 1981 when carrying out their functions as Licensing Authorities. Section 17 places a duty on Local Authorities to do all they reasonably can to prevent crime and disorder in their area.

## **EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING**

**Equality Implications:** There are no equality implications arising from the recommendations of this Report.

**Human Rights:** The Licensing Authority must ensure that its decisions can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action proportionate to what it wishes to achieve, or, colloquially does the end justify the means.

The premises licence applicant is entitled to a fair hearing. The human rights of the wider community are also engaged.

**Safeguarding Implications:** There are no specific safeguarding implications arising from the recommendations of this Report.



## HEALTH AND WELL BEING

Not Applicable.

## CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Not Applicable.

## ACRONYMS

DPS - Designated Premises Supervisor.

<b>APPENDICES</b>	
Appendices are listed below and attached to the back of the report:	
<b>APPENDIX A</b>	Location plan of The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ.
<b>APPENDIX B</b>	Site Plan of The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ.
<b>APPENDIX C</b>	Photograph of The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ.
<b>APPENDIX D</b>	Proposed premises licence conditions for The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ.
<b>APPENDIX E</b>	Redacted copies of the representations submitted by Other Parties.
<b>APPENDIX F</b>	Note Regarding the Live and Recorded Music Licensing Exemptions.
<b>APPENDIX G</b>	Extracts from the Guidance to Licensing Authorities Issued by the Home Office Under Section 182 of the Licensing Act 2003.
<b>APPENDIX H</b>	Extracts from the Local Licensing Policy Statement.

<b>BACKGROUND PAPERS</b>	
Background papers used in the production of this report are listed below: -	
<b>Document title</b>	<b>Where the document can be viewed</b>
Guidance issued by the Home Office to Licensing Authorities under Section 182 of the Licensing Act 2003	<a href="https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003">https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003</a>

The Council's Statement of Licensing Policy adopted under the Licensing Act 2003.	<a href="https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment">https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment</a>
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<b>CHRONOLOGICAL HISTORY OF THIS REPORT</b>
A report on this item has not been previously considered by a Council body.

<b>REPORT APPROVAL</b>	
Report author:	Mr Adrian Twiddy (Principal Licensing Officer) Email: <a href="mailto:adrian.twiddy@e-lindsey.gov.uk">adrian.twiddy@e-lindsey.gov.uk</a>
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