



North Devon Council

Report Date: 14th March, 2023

TOPIC: APPLICATION BY NATIONAL TRUST (ENTERPRISES) LTD FOR THE GRANT OF A PREMISES LICENCE

SANDLEIGH TEA ROOMS, MOOR LANE, CROYDE, EX33 1PA

REFERENCE NUMBER 055718

REPORT BY: LICENSING OFFICER NOEL BOURKE

1. INTRODUCTION

- 1.1 The purpose of this report is to present an application for the grant of a premises licence in respect of the Sandleigh Tea Rooms, Moor Lane Croyde, EX33 1PA.
- 1.2 The application (Appendix A) is made by National Trust (Enterprises) and requests the following licensing activity:

Permit the supply of alcohol on and off the premises.

A location plan of the premises has also been supplied within the application (Appendix A) and a plan of the premises (Appendix A).

- 1.3 The Licensing Authority has received relevant representation from neighbouring residents, Georgeham Parish Council and Croyde Area Residents association (CARA) in regard to the application which gives rise to the hearing. These representations have resulted in a meeting between a number of residents, Georgeham Parish Council, Croyde Area Residents association (CARA) and the Designated Premises Supervisor Jaime Boxell. The outcome of this meeting was that the applicant provided an amended licence application. (Appendix C)
- 1.4 The Licensing Authority has received the seven relevant representations (Appendices F, G, H, I, J, K, N) which give rise to the hearing.
- 1.5 The relevant representations meets the Licensing Objectives as follows:
 - The prevention of Public Nuisance
 - The Prevention of Crime and Disorder
 - Public Safety
 - Protection of Children from Harm

2. RECOMMENDATIONS

2.1 That the Sub Committee:

Considers the request for determination of the application for the grant of a premises licence and the representations (included in Appendices F, G, H, I, J, K, N) of this report, together with any oral submissions at the hearing.

2.2 In determining this application, the Sub-Committee must take one of the following steps, as it considers necessary for the promotion of the licensing objectives. The Sub-Committee should be mindful that in making their decision, if it involves the modification or imposition of conditions or the rejection in whole or in part of the application, such a decision could only be justified if it is made to promote the licensing objectives:

2.2.1 The steps are:

(a) to grant the licence subject to:

- (i) the terms sought by the applicant, including such conditions as are consistent with the operating schedule.
- (ii) such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the licensing objectives.

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates.

(c) to refuse to specify a person in the licence as the Designated Premises Supervisor.

(d) to reject the application.

2.3 Should the Sub-Committee be minded to grant the application then it is recommended that this be subject to conditions which seek to mitigate the potential for contraventions of the Licensing Objectives. The following conditions are recommended:

2.3.1 The proposed conditions submitted by the applicant in consultation with the Devon and Cornwall Police Licensing Officer Paul Butler and included as (Appendix B) of the report.

2.4 It will be best practice, as well as a matter of elemental fairness, that at a hearing, the Licensing Authority ensures that parties are aware of any condition the Licensing Authority is proposing to add of its own volition to a licence, in advance of the decision being made.

- 2.5 When Members are considering adding a condition that has not been addressed during the hearing, for example because it is raised after the Members have retired to consider their decision, the parties should be given an opportunity to address the Members on the new condition being considered. This can be done informally, for example, by the legal advisor passing a message to the waiting parties.
- 2.6 If the proposed condition proves controversial, the parties should be afforded the opportunity of addressing the Members further on both the principle of the condition or its specific wording. This is likely to serve the interests of all parties, including the Members who will be better informed about the impact and practicability of their proposal. Moreover, a failure to follow this approach risks attracting criticism from the appeal courts.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations are made so that the Sub-Committee fulfils its duty under section 18 of the Licensing Act 2003 to determine the application for a premises licence where relevant representations have been made.
- 3.2 The recommendations in relation to the imposition of conditions on the premises licence are made with a view to promoting the licensing objectives.

4. REPORT

- 4.1 An application to grant a premises licence for Sandleigh Tea Rooms, Moor Lane, Croyde, Devon EX33 1PA, was submitted on the 16th January 2023. Due to oversight in the placing of the blue application notice at the premises the application was re-advertised with a new acceptance date of the 27th January 2023 and a closing date of the 24th February 2023.
- 4.2 The initial proposed grant application as applied was to enable the supply of alcohol both on and off the premises Monday to Sunday from 11:00 to 23:00 hours.
- 4.3 Due to the representations being made a meeting was arranged on the 20th February 2023 between the Jamie Boxell Designated Premises Supervisor (DPS), Croyde and Residents association (CARA), Georgeham Parish Council and individuals who had made representations. As a result of this meeting an amended application (Appendix C) and an amended Plan (Appendix D) was submitted by Karen Cochrane Solicitor (Flint Bishop) representing the National Trust.
- 4.4 The initial proposed licensing activities and hours applied for was as follows:

Activity	Day	Start	Finish
Supply of alcohol on and off the premises	Monday to Sunday	11:00	23:00
Hours open to the public	Monday to Sunday	11:00	23:30
Provision of Films	Monday to Sunday	None	None
Provision of Live Music	Monday to Sunday	None	None
Provision of Recorded Music	Monday to Sunday	None	None
Late Night Refreshment	Monday to Sunday	None	None

4.5 The amended proposed licensing activities and hours applied for are as follows:

Activity	Day	Start	Finish
Supply of alcohol on the premises only	Monday to Sunday	11:00	17:00
Supply of alcohol on the premises only	Between June and September on a maximum of six occasions	11:00	20:00
Hours open to the public	Monday to Sunday	10:00	18:00
Hours open to the public	Between June and September on a maximum of six occasions	10:00	21:00
Provision of Films	None	None	None
Provision of Live Music	None	None	None
Provision of Recorded Music	None	None	None
Late Night Refreshment	None	None	None

4.6 Any grant of a premises licence may be subject to conditions applied by the Licensing Authority as a result of this hearing.

4.7 A plan of the amended internal layout of the premises is attached at (Appendix D).

4.8 In addition to the above applied for licensable activity, Section 16.6 of the Statutory Guidance issued under Sec. 182 of the Licensing Act 2003, outlines the deregulatory changes that have amended the Licensing Act 2003 to make certain activities non-licensable. Of particular relevance to the representation received against this application are the following provisions introduced by the Live Music Act 2012:

- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

4.9 Although live and recorded music have been deregulated subject to the conditions set out above, it is still open to the Licensing Authority to add conditions to a Premises Licence as though the live or recorded music were regulated entertainment authorised by that Premises Licence (between 8am and 11pm), where the Licensing Authority believe it is necessary for the promotion of the licensing objectives. Where this does take place it is necessary that any condition clearly cites this.

4.10 In addition, the Licensing Authority can determine that live or recorded music at the premises is a licensable activity and live or recorded music cannot be provided without permission on the Premises Licence.

5. RELEVANT REPRESENTATIONS

5.1 The relevant licensing objectives are:

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

5.2 Responsible Authorities

- 5.2.1 Devon and Cornwall Police – No representation received.
- 5.2.2 Devon and Somerset Fire and Rescue Service – No representation received.
- 5.2.3 NDC Environmental Protection – No representation received.
- 5.2.4 NDC – Health Food and Safety – No representation received.
- 5.2.5 NDC Planning – No representation received - response attached (Appendix E)
- 5.2.6 NDC Licensing – No representation received.
- 5.2.7 Devon County Council, Business Strategy and Support Services (Child Protection) - No representation received.
- 5.2.8 Devon County Council, Trading Standards – No representation received.
- 5.2.9 Public Health Devon – No representation received.
- 5.2.10 Home Office Immigration Enforcement – No representation received.

5.3 The Licensing Authority has received seven relevant representations:

- 5.3.1 Jo McDonald a resident of Croyde (Appendix F). This representation expresses concerns with regards to the licensing objectives of public safety, the prevention of public nuisance and the protection of children from harm. The representation particularly concerns the proposed off- sales of alcohol and hours for the supply of alcohol.
- 5.3.2 Alison Green - Price a resident of Croyde (Appendix G) This representation expresses concern with regards to the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The representation particularly concern the proposed off-sales of alcohol.

5.3.3 Deborah Sanders a resident of Croyde (Appendix H). The representation expresses concerns with regards to the licensing objectives of public safety and the prevention of public nuisance. The representations are particular to the proposed off- sales of alcohol.

5.3.4 Gail Osbourne a resident of Croyde (Appendix I). The representation expresses concerns with regards to public safety and the prevention of public nuisance. The representations particularly concern the proposed off-sales of alcohol and hours for the supply of alcohol.

5.3.5 Brian Whitty a resident of Croyde (Appendix J). The representation expresses concern with regards to the four licensing objectives of the prevention of crime and disorder, public safety, public nuisance and the protection of children from harm. The representation particularly regards the proposed hours for the supply of alcohol, errors in the submitted plan, the storage of alcohol, the conflict with the original planning application in which the National Trust documented that they recognised that “evening activity would be more likely to harm residential amenity”, measures to prevent alcohol being taken away from the premises and consumed on the beach or slipway, the risk posed by glass that alcohol will be served in, and lack of CCTV and security.

5.3.6 Georgeham Parish Council (Appendix K). The representation raised expresses concern with regards to the four licensing objectives of the prevention of crime and disorder, public safety, public nuisance and the protection of children from harm. The representation particularly regards the Planning Location plan (Appendix L) and the Supported Planning Statement dated the 27th October 2009 (Appendix M) in which it is documented that “there will be no evening operation of the use when activity would be more likely to harm residential amenity”, the lack of details in the application in relation to the number of staff on duty, their qualifications, training, record keeping and lack of CCTV.

5.3.7 Croyde and Residents association (CARA) (Appendix N). The representation raised express concerns with regards to the four licensing objectives of the prevention of crime and disorder, public safety, public nuisance and the protection of children from harm. The representation relates particularly to lack of consultation specifically considering the Supported Planning Statement dated the 27th October 2009 (Appendix M), proposed off- sales of alcohol, proposed hours for the sale of alcohol, amplified music, lack of a clear plan with visible red line, risk posed to customers entering via the main entrance and its proximity to the road, lack of visibility of areas within the premises by staff including the garden, carpark and the main entrance, proposed BBQ evenings, lack of detail in

relation to staff training and numbers of staff and the environmental impact of waste from the premises.

5.4 As a result of the above representations the Designated Premises Supervisor (DPS), Croyde and Residents association (CARA), Georgeham Parish Council and individuals who had made representations attended a meeting on the 20th February 2023.

5.5 As a result of the meeting the DPS Jamie Boxell drafted and forwarded an email with all of the agreed conditions and amendments to the licence conditions agreed in this meeting (Appendix O), and an amended premises plan (Appendix P).

5.6 As a result of agreements reached at this meeting an amended licence application (Appendix C) and an amended premises plan (Appendix D) was submitted by Karen Cochrane the Solicitor representing the National Trust (Flint Bishop Solicitors).

5.7 A response to the proposed amended licence application was provided by Jane Young on behalf of CARA and those who attended the meeting including Georgeham Parish Council and Brian Whitty (Appendix Q). This response also included an amended plan (Appendix R). This response broadly outlines that an acceptable agreement for an amended licence application was reached in the meeting on the 20th February 2023. The response goes on to state that the amended licence application provided by Karen Cochrane (Appendix C) did not accurately reflect the agreements reached with the DPS.

6. RELEVANT LICENSING POLICY CONSIDERATIONS

6.1 The Sub-Committee is entitled to draw upon any of the considerations outlined in its Licensing Policy document. However the most significant policy consideration appear to be the following:

- Paragraphs 3.1 to 3.2.2 (Prevention of Crime and Disorder).
- Paragraphs 3.3 to 3.32 (Public Safety).
- Paragraphs 3.4 to 3.4.3 (Prevention of Public Nuisance).
- Paragraphs 3.5 to 3.5.2 (Protection of Children from Harm).

6.2 The Sub-Committee is entitled to draw upon any of the considerations outlined in the Statutory Guidance issued under Sec. 182 of the Licensing Act 2003 and published by the Home Office. However, the most significant statutory guidance appears to be in the following:

- Paragraphs 2.1 to 2.6 (Crime and Disorder).
- Paragraphs 2.7 to 2.14 (Public Safety).
- Paragraphs 2.15 to 2.21 (Prevention of Public Nuisance).
- Paragraphs 2.22 to 2.32 (Protection of Children from Harm).

7. OBSERVATIONS/OPTIONS

- 7.1 The Act at section 18(3a) states that, before determining the application, the Licensing Authority must hold a hearing to consider it and any relevant representations. It must, having regard to the application and any relevant representations, take such steps mentioned in section 18 (4) (if any) as it considers necessary for the promotion of the licensing objectives.
- 7.2 In determining this application, the Sub-Committee must take one of the following steps as outlined in section 2.2.1 of this report.
- 7.3 If a licence is granted, any relevant mandatory conditions must be imposed in addition to any conditions the Sub-Committee decides to impose at the hearing. Mandatory conditions are standard conditions imposed by way of legislation and in respect of which there is no power to vary.
- 7.4 Any party to the hearing has the right of appeal to North and East Devon Magistrates' Court following the determination of the application under section 181 of the Act.
- 7.5 The Sub-Committee must have regard to all the evidence it hears in reaching its decision.

8. RESOURCE IMPLICATIONS

- 8.1 There are no direct financial or human resource implications for the Council associated with this report.
- 8.2 Should an appeal against the decision of the Licensing Sub-Committee be brought there are potential financial consequences to the Council should the Council's decision be overridden.

9. EQUALITIES ASSESSMENT

- 9.1. Not Applicable.

10. ENVIRONMENTAL ASSESSMENT

10.1. There are no direct environmental implications for the Council associated with this report.

11. CORPORATE PRIORITIES

11.1. What impact, positive or negative, does the subject of this report have on:

11.1.1. The commercialisation agenda: Neutral.

11.1.2. Regeneration or economic development: Neutral.

12. CONSTITUTIONAL CONTEXT

12.1. The Licensing Sub-Committee Article of part 3 Annexe 1 paragraph 4b.

12.2. Referred or delegated power Delegated
Legislative Context

13. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

14. BACKGROUND PAPERS

The following background papers were used in the preparation of this report:

- Licensing Act 2003.
- Revised guidance issued under section 182 of the Licensing Act 2003 (Home Office December 2022).
- Licensing Act 2003 (Hearings) Regulations 2005.
- North Devon Council Licensing Policy Approved 21.11.18.
- Live Music Act 2012
- Appendix A Premises Application
- Appendix B Police/Applicant Agreed Licence Conditions
- Appendix C Amended Application
- Appendix D Amended Premise plan
- Appendix E Planning Decision Notice
- Appendix F Representations Jo McDonald
- Appendix G Representations Ali Green - Price
- Appendix H Representations Deborah Sanders.
- Appendix I Representations Gail Osborne
- Appendix J Representations Brian Whitty
- Appendix K Representations Georgeham Parish Council
- Appendix L Sandleigh Planning Location Plan
- Appendix M Supported Planning status
- Appendix N Representations Croyde and Residents association (CARA)
- Appendix O DPS email containing agreed amendments to original application.
- Appendix P Amended Licence Plan
- Appendix Q Croyde and Residents association (CARA) response to amended licence application
- Appendix R Croyde and Residents association (CARA) amended plan.

15. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Noel Bourke, Licensing Officer. 14th March 2023

