

Bath & North East Somerset Council		
MEETING:	Licensing (Gambling and Licensing) Committee	AGENDA ITEM NUMBER
MEETING DATE:	Thursday 24 May 2012	
TITLE:	Application to Vary a Premises Licence for Bath Fringe – Spiegeltent Recreation Ground, Pulteney Mews, Bathwick, Bath BA2 4DS.	
WARD:	Abbey	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Annex A Application to Vary the Premises Licence		
Annex B Current Premises Licence		
Annex C Site Plan		
Annex D Representations		

1 THE ISSUE

- 1.1 An application has been received for the variation of an existing Premises Licence under Section 34 of the Licensing Act 2003 in respect of Bath Fringe – Spiegel tent, Recreation Ground, Pulteney Mews, Bathwick, Bath BA2 4DS (Annex A).

2 RECOMMENDATION

- 2.1 That the sub committee determine the application to vary the licence.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising from this report.

4 THE REPORT

- 4.1 An application has been received for the variation of a premises licence.
- 4.2 The current premises licence detailed in Annex B, permits the following licensable activities:

- 1) **Sale of Alcohol** for consumption on premises only between the following hours:

Monday to Thursday	11:00- 23:00
Friday and Saturday	11:00 – 23:45
Sunday	12:00 – 23:00

- 2) **Regulated Entertainment** by way of the Exhibition of Film, the Performance of Recorded Music, the Performance of a Play and the Provision of Facilities for Making Music and Dancing between the following hours:

Friday and Saturday 12:00 – 23:45

Sunday to Thursday 12:00 – 23:00

- 3) **Regulated Entertainment** by way of the Performance of Live Music between the following hours:

Every Day 12:00 – 23:00

- 4) **Regulated Entertainment** to permit Other Entertainment within the Act between the following hours:

Every Day 12:00 – 16:00

- 5) The **Opening Hours** of the premises are:

Monday to Thursday 11:00 – 23:20

Friday and Saturday 11:00 – 00:00

Sunday 11:00 – 23:20

- 6) The licence is subject to the following conditions:

- No supply of alcohol may be made under the premises licence:
 - a) At a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence;

- Admission of children is restricted in accordance with the recommendation by the British Board of Film Classification.

If the film has not been classified the restriction of children must be approved by the Licensing Authority.

("Children" means any person under 18 years);

- Any individual employed to carry out a security activity must be licensed by the Security Industry Authority;
- **This premises licence shall only be exercised in the months of May and June on the dates of, and in association with, the Bath Fringe and Festival.**
- Each year, the event shall only take place on the agreement of the responsible authorities and on the presentation of a revised and detailed plan of the proposed site layout and activities. The agreement of the responsible authorities shall be requested no less than eight weeks prior to the intended start of that year's event. The responsible authorities

shall have the right to veto the event should they deem that any of the licensing objectives would be breached if the event were to go ahead;

- Amplified music shall be situated no closer than 60m from the houses in Johnstone Street, Pulteney Mews, Pulteney Road, and, in addition, Great Pulteney Street, Edward Street and Vane Street.
- A full health and safety risk assessment for the fence area shall be provided;
- A notice of all health and safety procedures shall be issued to all staff, sub-contractors and performers;
- Overnight security shall be provided to protect the facilities and fenced area;
- All staff will be fully briefed in anticipating potential disorder and will report this to the management immediately;
- The capacity limit set by the Fire Authority shall be complied with at all times;
- Regular safety announcements shall be made to customers;
- Noise levels set by Environmental Health shall be complied with at all times. Regular checks on noise levels shall be made during practice and performance sessions and shall be recorded;
- There shall be no adult entertainment, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

4.3 The **Variation** application seeks to:

extend the terminal hour in respect of all licensable activities other than “other entertainment”, by half an hour;

add one day to the 10 day period of operation;

extend the terminal hour in relation to “other entertainment” to 19:00hours.

4.4 A site plan is attached at Annex C.

4.5 The Licensing Act 2003 (Section 4) states that it is the duty of all Licensing Authorities to carry out their functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:-

- a) The Prevention of Crime and Disorder.
- b) Public Safety.
- c) The Prevention of Public Nuisance, and
- d) The Protection of Children from Harm.

Each objective is of equal importance; there are no other licensing objectives so these four are of paramount consideration at all times. When considering applications/representations /notifications the Licensing Authority will have regard to these licensing objectives.

- 4.6 The Licensing Authority may vary and grant the application with or without additional conditions.
- 4.7 The Licensing Authority can refuse the variation or part of the variation as it considers necessary for the promotion of the licensing objectives.
- 4.8 The Licensing Authority may not however do anything to reduce the effect of the rights guaranteed by the existing premises licence.
- 4.9 Section 4(3) Licensing Act 2003 states that the Licensing Authority should also have regard to the Council's Licensing Policy, the Statutory Guidance issued under Section 182 of the Licensing Act 2003, and the Licensing Act itself, and in particular to:-
- a) Paragraphs 3, 5, 6, 9, 10, 16, 17, 18, 19, 20, 23, 24, 28, 30, 33, 35, 36, 37, 41 to 44 inclusive of the policy.
 - b) Chapters 8, 9 and 10 of the Statutory Guidance (as revised April 2012)
 - c) Sections 4, 9, 10, 13, 34, 35, 36, 182 and 183 of the Act.
- 4.10 The Licensing Authority recognises that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary for the applicant to ensure that he/she has **ALL** the necessary permissions in place to enable them to run the business within the law.
- 4.11 If the application is refused the applicant may appeal within 21 days of the notification to the Magistrates Court.
- If the application is granted the person making the relevant representation may appeal within 21 days of the notification to the Magistrates Court.
- On appeal the court may either dismiss the appeal; substitute the decision appealed against for any other decision which could have been made by the Licensing Authority, or remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court. The court may make such order for costs as it thinks fit.
- 4.12 In accordance with the requirements of the Act the applicants served copies of the application upon the Police, the Fire Authority, Environmental Health, Development Control, Trading Standards, and the Child Protection Agency. No representations have been received from any of the Responsible Authorities.
- 4.13 The applicant is required to place a notice at the premises for a period of 28 days starting the day after the application is made and place an advert in a local newspaper within 10 working days of submitting the application to the licensing authority.
- 4.14 **Representations** have been received from the Pulteney Estates Residents' Association (PERA) and individual residents. They express concern that the applicant's proposals are likely to undermine the **prevention of public nuisance** licensing objective (Annex D).
- 4.15 This report has not been sent to the Trades Union because they would have no involvement in this application.

5 RISK ASSESSMENT

- 5.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

6 EQUALITIES

- 6.1 An Equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

7 CONSULTATION

- 7.1 In accordance with the Licensing Act 2003 (Premises Licence and Club Premises Certificate) Regulations 2005, the applicant has given notice of the application to all the relevant Responsible Authorities and has advertised the application in the manner prescribed, both at the premises and within a local publication.

8 ISSUES TO CONSIDER IN REACHING DECISION

- 8.1 When reaching a decision, the licensing authority must carry out its functions with a view to promoting the four licensing objectives.
- 8.2 Consideration must be given to the Human Rights Act 1998 and the “convention rights”.

9 ADVICE SOUGHT

- 9.1 The Council’s Monitoring Officer (Divisional Director – Legal & Democratic Services), s.151 Officer (Divisional Director – Finance) and the Divisional Director have had the opportunity to input to this report and have cleared it for publication.

Background papers	Licensing Act 2003; Guidance issued under Section 182 of the Licensing Act 2003; Licensing Act 2003 (Hearing Regulations) 2005, B&NES Statement of Licensing Policy.
Contact person	Terrill Wolyn, Senior Licensing Officer