

PREMISES/PERSONAL LICENCES SUB-COMMITTEE

13 JANUARY 2020

REPORT OF CORPORATE DIRECTOR [OPERATIONAL SERVICES]

LICENSING ACT 2003

Members are respectfully reminded that, in determining the matters listed under item A.1, they are exercising an administrative function but should determine each matter adopting the civil burden of proof, i.e. 'on the balance of probabilities'. The matters will be determined on the facts before the Sub-Committee and the rules of natural justice will apply. Each application must be considered in its own right and on its own merits.

Premises Licence Applications

The Licensing Act 2003 established a single integrated scheme for licensing premises that are used for the supply of alcohol, regulated entertainment or provision of late night refreshment. This system of licensing incorporates the sale of alcohol both on and off licensed premises; public entertainment such as music, dancing, indoor sporting events, boxing or wrestling, theatres, cinemas; and late night refreshment houses and take-aways.

The purpose of the licensing system is to positively promote the four 'licensing objectives'.

These are:

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

The options open to the Sub-Committee when considering this application are:

1. To grant the application for a premises licence subject to such conditions that are consistent with the operating schedule accompanying the application and any mandatory conditions applicable.
2. To grant the application for the premises licence subject to such conditions as are consistent with the operating schedule accompanying the application and which are modified to such an extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions applicable.
3. To grant the licence as above, but to exclude from the scope of the premises licence any of the licensable activities to which the application relates.
4. To reject the application

When determining the application with a view to promoting the licensing objectives in the overall interests of the local community the Licensing Authority in the form of the Licensing Sub-Committee must have regard and give appropriate weight to the following:

- Full Hearing Procedure for Applications for Premises Licences/Club Premises Certificates where representations have been received.
- Tendring District Council's Statement of Licensing Policy.
- The Statutory Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- The steps appropriate to positively promote the four 'Licensing Objectives'.
- Representations (including supporting information) presented by all the parties.

Human Rights Implications

A Licence is to be regarded as the property of the applicant; however their right to the use of the property must be balanced against all other public interests or representations in this matter that the Premises/Personal Licences Sub-Committee may wish to consider as appropriate, reasonable and proportionate in relation to the application that has been submitted and also the representation/s that has/have been received against it.

In making their decision as to whether to grant this application, Members of the Premises/Personal Licences Sub-Committee should also take into consideration Article 1 of the First Protocol of the Human Rights Act 1998, that individuals are entitled to the peaceful enjoyment of their property, and also Article 8 that everyone has the right to respect for his private and family life and his correspondence.

Crime and Disorder Implications

Section 17 of the Crime and Disorder Act 1998 imposes a duty on local authorities when exercising any of their functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all it possibly can to prevent, crime and disorder in its area.

Members are requested to consider the information shown below where the Licensing Authority has received a representation about an application which is relevant to one or more of the four licensing objectives, and which suggests that the application may have a negative impact on one or more of the licensing objectives.

A.1 LICENSING ACT 2003 – APPLICATION NO: 19/00667/PREMGR APPLICATION FOR THE GRANT OF A PREMISES LICENCE - EAST COAST DISTILLERY LTD, LANDERMERE HALL FARM, BUILDING 3A, THORPE LE SOKEN, ESSEX

1.0 APPLICATION DETAILS

1.1 Applicants

East Coast Distillery Ltd

1.2 Premises

Landermere Hall Farm, Building 3A, Thorpe le Soken, Essex

1.3 Agents

None

1.4 Ward

Thorpe, Beaumont & Great Holland

1.5 Reason for Application

The application is made under the Licensing Act 2003 for a Premises Licence to include the sale of alcohol on and off the premises, the provision of films, the provision of recorded music .

2.0 GENERAL DESCRIPTION OF PREMISES

2.1 East Coast Distillery Ltd is a new business and the premises will primarily be used for the distilling and distributing of alcohol. In addition, we plan to open the premises for small events to showcase the product and the process of distilling. These events will take the form of regular scheduled gin tasting/meet the distiller events with small groups as well as larger less frequent events such as launch event, cinema club accompanied with themed cocktails and other themed events. e.g. Mayflower launch celebration. In addition we will be open for direct sales on a limited number of days.

The distillery is located in a former farming unit in a rural area. The private lane consists of premises for a small number of businesses which operate 9-5 working hours. The lane then leads down to a small number of residential properties although only one of these can be seen from the distillery. The premises has parking located adjacent to the property which is accessed by a single door. There is also a double door which will be used only for large deliveries. The premises consist of two main spaces with a high vaulted ceiling. At one end is the space for an office and sales counter which is accessed via personnel door with step. The far end of the space will house the still and other distilling equipment. This will include a secure and locked bottled product storage area (shown as O on diagram). Further details of layout are included on the attached document.

One toilet is available at the exterior of the property (shared with other neighbouring businesses). A toilet is also available within the premises and will be made available for small onsite events.

Parking is available for 6 cars during the working week. Overspill parking is available around the corner from the distillery outside the other businesses outside core business hours which visitors can utilise.

Use of property for sales:

- Off premises sale (spirits produced at the distillery) will be made from a sales counter at the personnel entrance to the premises. Visitors to the distillery will not enter the working part of the distillery for off-premises sales. These sales will be to people who visit purely to make a purchase.
- Small events such as “meet the distillery” and gin tasting events will take place on the premises. These will be ticketed events with tickets purchased in advance through Eventbrite and limited in number. As well as consuming alcohol on the premises people will also be able to buy bottles to take away.
- We also plan to run a limited number of other events including our launch event; seasonal events; and cinema clubs.

2.2 Proposed Opening Hours

The applicants are proposing to open to the public are:

Mondays, Tuesdays and Wednesdays	1000 to 1600
Thursdays, Fridays and Saturdays	1000 to 1600 1900 to 2300
Sundays	1000 to 1500

3.0 PROPOSED LICENSABLE ACTIVITIES

3.1 Provision of Films

Saturdays	1930 to 2200
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3.2 Provision of Recorded Music [Background music to be played at events]

Thursdays	1900 to 2230
Fridays and Saturdays	1900 to 2300

3.3 Sale of Alcohol on and off the premises

Mondays to Wednesdays	1000 to 1600
Thursdays	1000 to 1600 1900 to 2230
Fridays and Saturdays	1000 to 1600 1900 to 2300
Sundays	1000 to 1500

4.0 STEPS THAT APPLICANTS PROPOSE TO TAKE TO PROMOTE THE LICENSING OBJECTIVES WITHIN THEIR OPERATING SCHEDULE

The applicant has stated the following steps in the application to promote the licensing objectives. These measures are reproduced as shown in the application form and are detailed below for ease of reference. These are:

4.1 Crime and Disorder

We will work to support the local authorities' objectives relating to improving the quality of life and reducing crime and fear of crime.

We will do so by:

1. Ensuring that we always have a sufficient number of trained staff. Both company directors (2, one of whom is the DPS) have personal licences and will ensure that any other people working onsite selling alcohol are robustly trained and supported so that they feel comfortable to challenge inappropriate behaviour as needed.
2. We will ensure that all of those serving alcohol share concerns across the team and will escalate to local services (i.e. police, local authority) as appropriate such as drugs, violence or anti-social behaviour.
3. Ticketed events so we have the details of those people on the premises.

The site itself is close enough to local houses to not be exposed to undue risk of criminal activity but not so close as for the proposed hours of opening or activity to cause any form of nuisance to residents.

The perimeter of the site is well lit out of hours with the unit benefitting from recently installed external security lighting.

The premises are securely constructed with a steel reinforced personnel door and steel reinforced delivery doors.

The premises will be protected by a monitored intruder alarm system and the installation of high resolution CCTV.

In order to maintain security, access to the active area in which distilling takes place and the area where product is stored in duty suspension will be restricted by a dividing wall between this space and the shop/office space.

All visitors will be announced by a door alarm so as to ensure nobody enters the premises unannounced. Visitors will be recorded into and out of the premises using a manual log for security and safety.

Inspection of the integrity of the premises and security measures will be undertaken daily and logged manually with any issues identified and dealt with immediately.

All storage vessels that hold alcoholic product will be taped shut with numbered tamper evident tapes to ensure any evidence of attempted pilfering is identified. The number of these tapes will sit in the product movement log as alcohol is moved from bulk to process.

Whilst in Duty Suspension the product will be kept in a locked cage within the distillery to which only the two directors will have access.

4.2 Public Safety

The premises area also a working distillery and so the number of access of visitors to the distillery will be limited. As shown on the scaled drawings, events will primary take place on the right hand side of the premises (next to the main entrance). All equipment will be cleaned down and turned off during events with more than 15 visitors.

The premises will be fully risk assessed for the purposes of acting as the location for the distillery and this will include personal safety and lone working procedures.

A full fire safety inspection is planned when the plans for the premises have been progressed to ensure that the correct signage, safety equipment, evacuation plans and safety lighting are in place.

4.3 Prevention of Public Nuisance

We have taken the time to reach out to our neighbours to introduce ourselves and provide them with contact details should they have any concerns. We will display clear and prominent signage requesting that visitors respect our neighbours when leaving the premises.

Deliveries will take place only during working hours (9-5) so as to avoid disturbances to local residents.

We will promote local taxi firms and public transport to enable people to get safely to and from the premises. We will do this through our website, via booking confirmation emails for those attending bookable events, and with numbers displayed on our premises.

Environmental sustainability is core to our business ethos, so we will hold regular litter picks. N.B. We do not envisage that our business will contribute to the creation of any litter.

4.4 Protection of Children from Harm

Our gin tasting/meet the distiller events will not be open to those under 18.

For events such as cinema evenings where children may be allowed to some events we will operate a strict Challenge 25 policy. We will ensure all people selling alcohol are trained in its importance and feel confident in applying this. We will also display signs to make clear our policy of Challenge 25.

4.5 General Information in support of the application in relation to all of the licensing objectives.

Our primary objective as a business is to produce spirits for trade distribution – initially a London Dry Gin, with other gins and spirits to follow. We also have a non-alcoholic version of our signature gin in development.

The purpose of applying for a premises licence is to enable us to locally raise our profile and to engage with the local community. We will do this through our small events to showcase the distilling process in the area from which some of our botanicals are sourced.

5.0 RELEVANT REPRESENTATIONS

5.1 Interested Parties/Other Persons

- 5.2** The Police Reform and Social Responsibility Act 2011 (PRSR Act 2011) removed from the Licensing Act 2003 the specific reference for representations to be made by 'interested parties' and also removed the requirement that representations could only be accepted from persons living in the 'vicinity' of the premises concerned, or who had for example, a business in the 'vicinity' of the premises.
- 5.3** There was no guidance or definition of 'vicinity' within the Licensing Act 2003 which effectively had a limiting effect on those that could make relevant representations.
- 5.4** The PRSR Act 2011 replaced the references to 'interested parties' and 'vicinity' and substituted that representations can be made and accepted by the Licensing Authority from 'other persons' which means that those persons do not necessarily have to live or run a business for example in the proximity of the premises to be able to submit a valid and relevant representation.
- 5.5** The relevant extracts from the Section 182 Guidance that accompanies the Licensing Act 2003 advises the following in relation to 'other persons'. They are shown in italics for ease of reference.

8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises.

- 5.6** Representations can be made either against or in support of an application. The relevant extracts from the Section 182 Guidance that accompanies the Licensing Act 2003 advises the following in relation to this point.

9.3 Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

- 5.7** 6 letters of representations/objections have been received from residents in relation to this application.

6.0 RESPONSIBLE AUTHORITIES

No representations have been received from any other Responsible Authorities.

7.0 POLICY CONSIDERATIONS

The Licensing Authority's Statement of Licensing Policy expects applicants to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance relevant to the individual style and characteristics of their premises.

- 7.1** The relevant extracts from the Council's Statement of Licensing Policy in respect of Planning considerations (shown in italics) and also the 'Prevention of Public Nuisance' licensing objective are as follows:

1.20 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its

licensing functions will be discharged separately from the Authority's functions as the local planning authority. However, applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.)

5.0 PREVENTION OF PUBLIC NUISANCE

- 5.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 5.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.
- 5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.
- 5.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

8.0 RELEVANT SECTION 182 GUIDANCE – PREVENTION OF PUBLIC NUISANCE

- 8.1 The following sections shown below in italics are taken from the Home Office Section 182 Guidance that accompanies the Licensing Act 2003 and are included for the assistance of the Licensing Sub Committee, the applicant, responsible authorities, residents and any other interested parties to this hearing. They do not however form the totality of the guidance in relation to this licensing objective which should also be considered in its entirety. These are:
- 2.18 *The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.*
- 2.19 *Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance*

affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

9.0 RELEVANT SECTION 182 GUIDANCE - PREVENTION OF CRIME AND DISORDER

9.1 The following section shown below in italics is taken from the Home Office Section 182 Guidance that accompanies the Licensing Act 2003 and is included for the assistance of the Licensing Sub Committee, the applicant, responsible authorities, residents and any other interested parties to this hearing. They do not however form the totality of the guidance in relation to this licensing objective which should also be considered in its entirety. This is:

2.1 Licensing Authorities should look to the police as the main source of advice on crime and disorder.

10.0 RELEVANT SECTION 182 GUIDANCE – PLANNING AND BUILDING CONTROL

10.1 The following section shown below in italics is taken from the Home Office Section 182 Guidance that accompanies the Licensing Act 2003 and is included for the assistance of the Licensing Sub Committee, the applicant, responsible authorities, residents and any other interested parties to this hearing.

13.56 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.57 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

11.0 ASSOCIATED PAPERS

The following papers are attached as part of this agenda for Members of this Sub-Committee only:-

- (i) Application form and any supporting documentation.
- (ii) Location Plan.
- (iii) Representation/objection letters

Copies of all documentation concerning this application are also available from Licensing Section upon request.

12.0 DECISION

12.1 Each application must be considered in its own right and on its own merits only as to how it might impact on the four licensing objectives which are the Prevention of Crime and Disorder, the Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm.

12.2 The Licensing Sub Committee is therefore asked to determine this application taking into consideration the application in its own right and on its own merits and also all of the relevant information that has been submitted as part of this report and at the hearing itself.

PAUL PRICE
CORPORATE DIRECTOR [OPERATIONAL SERVICES]