

## PREMISES/PERSONAL LICENSING SUB-COMMITTEE

25 NOVEMBER 2024

### REPORT OF DIRECTOR (GOVERNANCE & LEGAL)

#### A.1 GRANT OF A PREMISES LICENCE

**WESTBROOKS BREWERY LTD, UNIT 1 GRANGE FARM, GRANGE ROAD,  
LAWFORD, MANNINGTREE, ESSEX CO11 2ND  
REF: 24/00575/PREMGR**

#### PURPOSE OF THE REPORT

To inform Members that an application has been received for the Grant of a premises licence under the Licensing Act 2003 from Ms Jessica Westbrook of Westbrooks Brewery Ltd to sell alcohol off the premises at Westbrooks Brewery Ltd, Unit 1 Grange Farm, Grange Road, Lawford, Manningtree, Essex and further that an objection notice to the proposed licensable activity has been received from Tendring District Council Planning Authority.

#### BACKGROUND

The application is made under the Licensing Act 2003 for a Premises Licence to include the Sale of Alcohol off the premises.

The applicant has described Westbrooks Brewery Ltd as a cold-storage unit, situated inside a larger storage facility on a farm. The exterior of the building has stone walls, metal cladding, roller shutter doors and a concrete floor. Alcohol (kegs and cans of beer) will be stored in a cold store inside the main storage unit. All alcohol will be stored here, packed for delivery and collected via DPD. No alcohol will be consumed on site. It will be for personal consumption at home by people who order from us, or in pubs/restaurants covered by their own licenses.

The applicants are proposing to open to the public and sell alcohol off the premises Monday to Saturday between 0900 hours and 1730 hours.

The application can be found attached at Appendix A.

#### RELEVANT REPRESENTATIONS

##### Interested Parties/Other Persons

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.

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.

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.

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.*

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.*

No letters of representation/objection have been received from residents in relation to this application.

### **Responsible Authorities**

One representation has been received from Tendring District Council Planning Authority with the following comments:

*"The current recognised use of the land and building is for agricultural land and use, with the opening of a shop in the case a off licence it would in require express permission (planning permission) from the local planning authority as the land would be considered a mixed use (agricultural and use Class E)"*

The full representation can be found attached at Appendix B

## **FINANCE, OTHER RESOURCES AND RISK**

A decision made by the Committee is subject to appeal at the Magistrates Court by the premises user or a relevant person.

## **POLICY CONSIDERATIONS**

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.

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.

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 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.

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.)*

### **Relevant Section 182 Guidance – Prevention of Crime and Disorder**

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.*

### **RECOMMENDATION(S)**

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.

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.

### **APPENDICES**

Appendix A - Copy of Application  
Appendix B - Representation/Objection Letter from Tendring District Council Planning Authority

### **REPORT CONTACT OFFICER(S)**

<b>Name</b>	<b>Michael Cook Emma King</b>
<b>Job Title</b>	<b>Licensing Manager Licensing Officer</b>

**Email/Telephone**

[licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)  
**01255 686565**