

Report of the Head of Elections, Licensing and Registration

Report to the Licensing Sub Committee

Date: Tuesday 20th September 2016

Subject: Application to vary a premises licence held by Apres Cafe Bar 179 High Street, Boston Spa, Wetherby, LS23 6AA

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Wetherby	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

This is an application to vary a premises licence, made by Mr Neil Hanby and Mrs Adrienne Elizabeth Hudson, for Apres Cafe Bar 179 High Street, Boston Spa, Wetherby, LS23 6AA

Responsible authorities and Ward Members have been notified of this application.

The application has attracted representations from other persons and/or responsible authorities.

1 Purpose of this report

- 1.1 To advise Members of an application made under section 34 of the Licensing Act 2003 ("the Act") to vary a premises licence in respect of the above mentioned premises.
- 1.2 Members are required to consider this application due to the receipt of representations.

2 History of premises

An application was first received on 21st October 2005 for the Grant of a Premise Licence for this premise. Representations were received from members of the

public and a hearing was scheduled. At the hearing the licensing officers report was taken into consideration as were the comments from Members of the Public. An agreement had already been reached between the applicant and West Yorkshire Fire & Rescue due to work being completed to a satisfactory level. The committee decided to Grant the application with amendments to the operating schedule.

On the 6th March 2009 a further application was received to vary the operating schedule at this Premise. Again representations were received and a hearing was scheduled before the Licensing Sub Committee on 11th May 2009. At the hearing Members carefully considered the application and resolved that in view of the comments from Environmental Protection Team, that the premises were not suitable for Live Music. Therefore the application was granted in part in respect of the opening hours.

2.1 A copy of the existing licence is attached at **Appendix A**.

3 The application

3.1 The applicant is Mr Neil Hanby and Mrs Adrienne Elizabeth Hudson

3.2 Briefly the application is to:

- Increase the hours for Sale of Alcohol and Recorded Music
- To add Live Music, Films and Performance of Dance to the operating Schedule
- To include the basement area to include licensable activities for up to 24 guests as the plan provided with the application

4 The operating schedule

4.1 The applicant proposes to promote the licensing objectives by taking the additional steps identified in the operating schedule. The application may be found at **Appendix B**

5 Location

5.1 A map which identifies the location of this premises is attached at **Appendix C**.

6 Representations

6.1 Under the Act representations can be received from responsible authorities or other persons. Representations must be relevant and, in the case of another person, must not be frivolous or vexatious.

Representations from Responsible Authorities

6.2 Any representations received may be negotiated prior to the hearing. In this instance the operating schedule has been amended to include the measures

agreed with Environmental Protection Team and West Yorkshire Police. A copy of the agreement may be found at **Appendix D**.

- 6.3 It is brought to Members attention that an agreement has been reached between parties with regards to a reduction in the terminal hour for licensable activities. Confirmation is attached at **Appendix E**

Other representations

- 6.4 The application has attracted representations from members of the public (described as 'other persons' in the legislation).
- 6.5 Entertainment Licensing are in receipt of ten individual letters of objection. The main concern that has arisen from members of the public is with regards to nuisance which may emanate from the premise should the variation be granted. This has included concerns relating to noise nuisance and disturbance to surrounding properties.
- 6.6 In order to protect personal data, redacted copies of the representations are attached at **Appendix F**. Unredacted copies will be available at the hearing for Members consideration.

7 Licensing hours

- 7.1 Members are directed to paragraphs 6.8 to 6.15 for the Statement of Licensing Policy which states the criteria that will be applied to any decision for new applications or variations which include extending hours.
- 7.2 In brief the Policy states at 6.14 that restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.
- 7.3 A list of premises in the local area and their licensed hours and activities is provided at **Appendix G**

8 Equality and diversity implications

- 10.1 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the licensing subcommittee will be in accordance with the four licensing objectives as prescribed by the Licensing Act 2003.

9 Options available to Members

- 9.1 The licensing subcommittee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the variation as requested.
- Grant the variation whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- Exclude any licensable activities to which the application relates.
- Reject the whole or part of the application.

9.2 Members of the licensing subcommittee are asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

10 Background papers

- Guidance issued under s182 Licensing Act 2003
- Statement of Licensing Policy