

Licensing and Enforcement

Your Reference: LICENS/018/21

Date: 3<sup>rd</sup> November 2021

**RE: Licensing Application, Brook House Brewery, 12 Besthorpe Road, Collingham, NG23 7NP**

I write to provide background information and comments on licensing application reference LICENS/018/21 (“the Application”), with regard to the planning permission context for the premises and its implications for the Application.

Planning permission was granted for the conversion of a number of outbuildings at 12 Besthorpe Road for use as a micro-brewery in February 2019, reference 18/01060/FUL. The planning permission allows for the production, storage and distribution of their products and does not intrinsically allow for the premises to operate as a drinking establishment or events venue. While Licensing and Planning regulations are distinctly separate areas of the law, I raise concerns that the allowances applied for within the Application are in conflict with the planning permission for the premises.

**Lawful Planning Use**

In planning terms, as well as the manufacture and distribution of their products, it was anticipated that some ancillary open days and public access to the premises for the marketing and sale of the product may also take place, subject to licensing. To operate regularly and consistently beyond these parameters, as a drinking establishment and events venue akin to a public house, is not lawful within the planning context. The hours of operation and activities outlined in the Application indicate a potential usage as a drinking establishment without the requisite planning permission.

Whether the premises is operating beyond its lawful use as a micro-brewery within a planning context is a matter of fact and degree, meaning that the Council can apply a degree of flexibility when deciding whether to enforce a planning permission or allow for a sensible compromise. Should live music and public access to the premises for the consumption of alcohol be infrequent, intermittent, and not causing an unacceptable disturbance to the locality, there is potential for the premises to operate within the spirit of the planning permission as a micro-brewery while still hosting ad-hoc events that could be licensed by the Application.

I have met and corresponded with the applicant and identified that the scale and regularity of events hosted over summer 2021 has been excessive, unauthorised from a planning perspective, and likely harmful to the amenity of the locality. I have suggested the hosting of events which go beyond what might reasonably be expected during the daytime at a micro-brewery, such as late night music events, be limited to a maximum of two per month and hosted with respect for the safety and amenity of the locality.

If the License is approved for music and consumption of alcohol until 23:00pm, the applicant could sensibly host ad-hoc and low impact events without being in conflict with lawful planning use as a micro-brewery. Should a license be granted, it would not supersede the planning position and allow for routine and flagrant disregard for local amenity, and planning enforcement action could yet be taken despite the granting of a license.

I would, however, suggest that the hosting of such events on evenings other than a Friday and Saturday is likely to lead to an unacceptable impact upon the locality, and that the License be revised to permit such late-night events only on a Friday and Saturday night.

### **Planning Conditions**

The grant of planning permission in 2019 was subject to compliance with a number of planning conditions. Most fundamental to the Application is Condition 08, which reads:

*“The premises shall only be open to members of the public between the following hours:-*

- *9am to 5pm Mondays to Saturdays and;*
- *10 am to 5pm on Sundays.*

*Reason: In the interests of residential amenity.”*

The Application seeks a license to operate far beyond these parameters, and as such the license would be in direct conflict with the planning permission. However, I would reiterate that the Council can apply flexibility when enforcing a planning permission if a sensible solution can be established.

I have made clear to the applicant that ad-hoc, low impact events outside of the allowances of Condition 08 may be agreeable providing such events do not lead to a regular and undue impact upon the locality. Such events would be a breach of planning Condition 08, however the Council has discretionary authority whether or not to enforce a condition based on the scale of impact caused by non-compliance. Without prejudicing any future decision made by the Council, should these events finish at a reasonable hour and be no more than two per month, the Council may determine that planning enforcement action is not justified.

I would clarify that other Conditions pertaining to noise and odour apply to the production process only and does not apply to noise from customers, and therefore is not a consideration as part of the Application. A layout plan showing an area of vehicular parking being available at all times has also been conditioned as part of the planning permission. Any license granted must not allow for outdoor seating on the designated gravel parking area to the immediate right of the access point, in conflict with the planning permission.

**Summary**

In order for the planning permission and the license to be in harmony, considerable changes to the proposed hours of operation would be required. This would allow for the general sale and consumption of alcohol and restrict the level of disturbance to the locality in compliance with the planning permission as intended when granted. Ad-hoc late night events could be approved by the submission of TENs applications. There is no planning permission for the use of the premises as a drinking establishment akin to a public house.

Alternatively, should the license be granted beyond the hours stipulated within Condition 08 of the planning permission, the applicant must be aware that any utilisation of that license should be low impact and infrequent. The granting of such a license would not prevent planning enforcement action being taken if liberties were to be taken with the compromise position.

Yours sincerely

Chris Briggs  
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