

## LICENSING SUB-COMMITTEE

29 OCTOBER 2020

### APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

#### **1.0 Purpose of Report**

1.1 For Members to consider an application for the review of the premise licence for the Bramley Apple, 51 Church Street, Southwell, NG25 0HQ by Ms Jill Morris.

#### **2.0 Reasons for Application for Review**

2.1 The application for review relates to the following licensing objectives:

- The prevention of crime and disorder
- The prevention of public nuisance

2.2 A full copy of the application can be found at **Appendix 1**.

2.3 Following advertisement of the application to review the premise licence additional representations have been received from:

- Review objector 1
- Cllr Penny Rainbow
- Richard Scragg and Helen Teasdale (Premise licence holder)
- Review Supporter 1
- James Kemp (DPS)
- Jonathan Rice (Manager)
- Review supporter 2
- Review objector 2
- Review supporter 3
- Review supporter 4
- Review supporter 5
- Review supporter 6
- Review supporter 7
- Review supporter 8

2.4 A copy of these representations can be found at **Appendix 2**.

#### **3.0 The Premises Subject to Review**

3.1 The premises subject to this review application is Bramley Apple, 51 Church Street, Southwell, NG25 0HQ.

3.2 A plan and photographs showing the site in context of its surroundings is shown as **Appendix 3** to this report.

#### 4.0 Licensing History

4.1 The Bramley Apple, 51 Church Street, Southwell, NG25 0HQ, applied for a conversion and variation of their licence when the powers to licence a premise transferred from the magistrates' court to the local authority in 2005. The original licence was granted following a hearing on 30.09.05.

4.2 This table shows the applications that the licensing authority have received in relation to this premise:

Date	Type of application
05.08.05	Conversion and variation application
29.12.05	Premise variation application
24.09.10	Vary DPS application
08.05.12	Vary DPS application
29.05.13	Vary DPS application
26.03.14	Minor variation application
24.09.14	Vary DPS application
25.02.15	Transfer application
10.07.15	Vary DPS application
07.10.15	Transfer application
18.08.16	Vary DPS application
26.06.17	Vary DPS application
16.01.19	Vary DPS application
05.09.20	Vary DPS application

4.3 This table shows the complaints recorded on the system in relation to the Bramley Apple, 51 Church Street, Southwell, NG25 0HQ.

Date received	Complaint	Action
July 2006	Noise from premises, inside and outside	Complaint investigated. No action taken
August 2007	Noise from premises	Advice given to DPS
October 2007	Noise from people smoking outside	Advice given
April 2008	Loud music	Advice given
May 2008	Breaches of licence conditions and loud music	Complaint investigated. See below
June 2009	Noise	Agreement with brewery and DPS on steps need to reduce problems.
August 2012	Noise from live music	Advice given
30.07.14	Complaints of music and people music finished at 11 XXX XXXXX could hear music in their living room with windows and doors closed.	Complaint investigated
04.08.14	Music and bbq people noise from front of pub	Complaint investigated
06.08.14	Noise from pub	Noise abatement notice served. Problem resolved.
November 2016	Noise from people leaving premises	Advice given

15.08.18	<p>Having problems with anti-social behaviour at the Bramley Apple. At closing time customers congregate outside and fail to move away for some considerable time.</p> <p>Friday 10<sup>th</sup> 00:25 Still very noisy shouting and shrieking outside. One youth urinated on the garden wall on the corner of Farthingate.</p> <p>00:35 A number of groups from the pub passed by shouting and swearing. Regularly cars honking as they passed acknowledging the group still on the pub.</p> <p>00:55 Group talking loudly as they congregated outside the houses on Church St.</p> <p>01:00 Noise still coming from the pub front</p>	<p><i>I have just spoken with the DPS of the Bramley Apple and advised him of his responsibilities in relation to noise levels etc when people leaving his pub</i></p> <p><i>He assures me that he monitors it and advises when necessary but he does say that a lot of the noise comes from people walking past his pub who have not been in and also from passing traffic which he cannot do anything about.</i></p>
18.09.18	Noise – people congregating outside pub	LEO visited and observed reasonable noise levels, asked DPS to remove seating from front of pub to discourage people gathering outside
06.10.18	Fighting outside the premises around 3am on Sunday morning	
26.11.18	Music and noise from the pub on last Friday night, 23 Nov was horrendous. It seems to be Fridays which is the worse. It was in the beer garden at the back.	LEO spoke to complainant and advised to keep records of any further problems. No further issues reported
28.11.18	Noise from Bramley until midnight and beyond.	New tenants took over, noise issues improved. LEO visited new tenants to brief them on past issues
14.01.19	<p>Complainant is concerned about anti-social and dangerous behavior of regular customers of the pub, e.g. noise and driving recklessly. He has spoken to the person currently running the Bramley, the customers themselves and the PCSO but feels that nothing is being done.</p> <p>"This situation is not helped by the generous licensing hours you have granted this pub, namely a licence that allows them to stay open until 01:00hrs on Fridays and weekends. How this was granted to a pub which is located within a primarily residential area beggars belief."</p>	LEO liaised with police and complainants, met with tenant and DPS, advised to keep records of any warnings given to customers about their behaviour which shows that they are taking reasonable steps to try and prevent noise etc. They are aware that police have been informed also.

17.6.19	Screaming/breaking glass	LEO visited DPS and new manager. They say that the noise problems were due to a particular male individual arguing with 3 other women. <i>They have all been barred from the pub and therefore should not be returning. I have reminded the Licensee and manager of the history of incidents and have given them fair warning that if there are further complaints then the licence is likely to be reviewed. The new manager has been there 5 or 6 weeks and to date has not had any problems. They have given me some assurances that they will deal swiftly with any further noise issues, particularly outside at the front where customers tend to congregate. Therefore I think the new management should be given a fair chance to keep the pub all in order.</i>
22.07.19	Complainants stayed overnight, loud music was playing until 2.30am Friday evening and then started again at 6.00am. Complainants went downstairs - there were two people in the pub, they were both very drunk.	LEO TD spoke with current manager Ruth Curtis. She said that 2x drunken people seen at 6am were guests and were helping themselves to drinks behind the bar. They have now been barred from returning to the pub. She denied that loud music was being played at 02:30. She is now in the process of arranging for appropriate measures to be put in place to prevent guests from going behind bar to help themselves.
29.07.19	Noise issue from pub	LEO met with licence holder, area manager and pub manager and discussed problems over the last 2 years. Measures put in place: 1) Only acoustic music being played from now on and at the front of the premises; 2) A sound insulation board will be put in place at the rear of the premises when music is being played, 3) Customers will not be

		allowed to congregate outside at the front of the premises after 10pm, 4) Customers will not be allowed to drink outside at the rear after 11pm.
11.12.19	Report of serving beyond licensed hours and anti-social behaviour inside and outside the pub	CCTV viewed. LEO met with licence holder, area manager and pub manager. No evidence to take any of the allegations further.
04.02.20	Illegal parking	Parking enforcement informed
17.05.20	Police received reports of the pub and beer garden being rammed.	LEO TD visited pub and spoke with manager John at a safe distance. They are in process of refurbishing inside and outside of the pub. Workers on site
22.07.20	Noise nuisance	Under investigation

4.4 A copy of the current licence for the Bramley Apple, 51 Church Street, Southwell, NG25 0HQ can be found at **Appendix 4** to this report.

#### 5.0 **Premise with Licensable Activities in the Surrounding Area**

5.1 There are a few premises within close proximity to the application site, the closest licensed premises being located at:

- Hearty Goodfellow, 81 Church Street, Southwell, NG25 0HQ
- Old Coach House, 69 Easthorpe, Southwell, NG25 0HY

5.2 This table shows the licensable activities for the above premise:

Premise name	Licensing Hours
Hearty Goodfellow, 81 Church Street, Southwell, NG25 0HQ	<p>A Standard Times</p> <p>1. Regulated Entertainment</p> <p>a) Plays Monday to Sunday – 12.00 to 23.00</p> <p>b) Films Monday to Sunday – 08.00 to 23.00</p> <p>e) Live music Monday to Sunday – 19.00 to 23.00</p> <p>f) Recorded music Monday to Sunday – 19.00 to 23.00</p> <p>2. Late night refreshment Monday to Thursday – 23.00 to 00.00 Friday to Sunday – 23.00 to 01.00 the following day</p> <p>3. The supply of alcohol Sunday to Thursday – 11.00 to 00.00 Friday and Saturday – 11.00 to 01.00 the following day</p>

	<p>B Non Standard Times</p> <p>1. Regulated Entertainment</p> <p>e) Live music Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 12.00 to 00.00 24 December 12.00 to 00.00 Christmas Day 31 December 12.00 to 01.00 New Years Day</p> <p>f) Recorded music Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 23.00 to 01.00 24 December 23.00 to 01.00 Christmas Day 31 December 23.00 to 02.00 New Years Day</p> <p>2. Late night refreshment Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 12.00 to 00.00 24 December 12.00 to 00.00 Christmas Day 31 December 12.00 to 01.00 New Years Day</p> <p>3. The supply of alcohol Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 12.00 to 01.00 24 December 11.00 to 01.00 Christmas Day 31 December 11.00 to 02.00 New Years Day</p> <p><b>The opening hours of the premises</b></p> <p>A Standard Times Sunday to Thursday – 08:00 to 01:00 the following day Friday &amp; Saturday – 08:00 to 01:30 the following day</p> <p>B Non Standard Times Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 08.00 to 01.30 24 December 08.00 to 01.30 Christmas Day 31 December 08.00 to 02.30 New Years Day One hour prior to and one hour after the advertised showing of any sport event with international significance.</p>
<p>Old Coach House, 69 Easthorpe, Southwell, NG25 0HY</p>	<p>1. <b>The provision of Regulated Entertainment as follows:</b></p> <p>a. The exhibition of films b. Indoor sporting events c. The provision of live music d. The provision of recorded music</p> <p>2. The supply of alcohol</p> <p><b>A Standard Timings</b></p> <p>1. The provision of regulated entertainment of the descriptions in the above box:</p>

	<p>Sunday to Thursday –10:00 to 24:00 Friday and Saturday –10:00 to 01:00 the following day</p> <p>2. The supply of alcohol Sunday to Thursday –10:00 to 24:00 Friday and Saturday –10:00 to 01:00 the following day</p> <p><b>B Non Standard Timings</b></p> <p>1. The provision of regulated entertainment of the descriptions in the above box: Easter Monday Bank Holiday, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> &amp; 27<sup>th</sup> December - 10:00 to 02:00 the following day 31<sup>st</sup> December 10:00 to January 2<sup>nd</sup> 01:00</p> <p>2. The supply of alcohol: Easter Monday Bank Holiday, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> &amp; 27<sup>th</sup> December - 10:00 to 02:00 the following day 31<sup>st</sup> December 10:00 to January 2<sup>nd</sup> 01:00</p> <p>3. An additional hour to both standard and non standard times on the day when British Summer Time commences In the event of the transmission of any international event which falls outside the standard hours timing to commence 1 hour before the start of the event and ending one hour after the end of the event</p> <p><b>Standard Opening Hours</b> Sunday to Thursday – 10:00 to 01:30 the following day Friday and Saturday – 10:00 to 02:30 the following day Opening hours when non standard timings apply Easter Monday Bank Holiday, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> &amp; 27<sup>th</sup> December - 10:00 to 02:00 the following day 31<sup>st</sup> December 10:00 to January 2<sup>nd</sup> 01:00 An additional hour to both standard and non standard times on the day when British Summer Time commences In the event of the transmission of any international event which falls outside the standard hours timing to commence 1 hour before the start of the event and ending one hour after the end of the event</p>
--	--

**6.0 Additional Information Requested by Licensing Authority**

6.1 Further information was requested from all parties by the licensing authority in Schedule 1 of the Notice of Hearing. As detailed below:

Applicant	Additional Details
Jill Morris	<ul style="list-style-type: none"> <li>• Please state the exact controls that you seek to have on any outside areas including any time limits.</li> <li>• Are there any other conditions that you would like the Licensing Panel to consider attaching to the licence that support the licensing objectives, which are: <ul style="list-style-type: none"> <li>• The prevention of crime and disorder,</li> <li>• Public safety,</li> <li>• Prevention of public nuisance, and</li> <li>• The protection of children from harm</li> </ul> </li> </ul>

**Additional Details Required from all Review Supporters Listed Below:**

Review Supporters:	Additional Details
<ul style="list-style-type: none"> <li>• Cllr Penny Rainbow</li> <li>• Review Supporter 1</li> <li>• Review supporter 2</li> <li>• Review supporter 3</li> <li>• Review supporter 4</li> <li>• Review supporter 5</li> <li>• Review supporter 6</li> <li>• Review supporter 7</li> <li>• Review supporter 8</li> </ul>	<ul style="list-style-type: none"> <li>• Please state the exact controls that you seek to have on any outside areas including any time limits.</li> <li>• Are there any other conditions that you would like the Licensing Panel to consider attaching to the licence that support the licensing objectives, which are:                             <ul style="list-style-type: none"> <li>• The prevention of crime and disorder,</li> <li>• Public safety,</li> <li>• Prevention of public nuisance, and</li> <li>• The protection of children from harm</li> </ul> </li> </ul>

**Additional Details Required from all Review Objectors Listed Below:**

Review Objectors:	Additional Details
<ul style="list-style-type: none"> <li>• Review objector 1</li> <li>• Richard Scragg and Helen Teasdale (Premise licence holder)</li> <li>• James Kemp (DPS)</li> <li>• Jonathan Rice (Manager)</li> <li>• Review objector 2</li> </ul>	<p>Please state the detailed reasons why you believe that the current hours of operation (both inside and out) support the licensing objectives, which are:</p> <ul style="list-style-type: none"> <li>• The prevention of crime and disorder,</li> <li>• Public safety,</li> <li>• Prevention of public nuisance, and</li> <li>• The protection of children from harm</li> </ul>

6.2 The responses that the licensing authority has received, can be found at **Appendix 5**.

**7.0 NSDC Policies Applicable**

7.1 Statement of Licensing Policy 2019-2023

Policy 1

*The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.*

*REASON: To ensure the promotion of the licensing objectives.*

Policy 2

*When preparing or considering applications, applicants, responsible authorities, interested parties and the Licensing Authority shall, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the necessity for,*

and proportionality of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:

- (i) the nature of the area within which the premises are situated.
- (ii) the precise nature, type and frequency of the proposed activities.
- (iii) any measures proposed by the applicant in the Operating Schedule.
- (iv) the nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) means of access to and exit from the premises.
- (vi) the provision and availability of adequate seating and the restriction of standing areas.
- (vii) transport provision in the area and the likely means of public or private transport.
- (viii) parking provision in the area.
- (ix) the potential cumulative impact
- (x) other means and resources available to mitigate any impact.
- (xi) such other matters as may be relevant to the application.

*REASON: To ensure that all relevant matters are taken into consideration during the application process.*

Under the above policy objective, the statement of licensing policy says:

*7.6 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking or moving from one part of the premises to another), must be recognised and mitigated against.*

*7.7 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and or late night refreshment at any time when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours.*

*7.8 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise-sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.*

7.2 Chapters 6 and 7 of the Statement of Licensing Policy are considered particularly relevant to this review application. These are attached as **Appendix 6**.

## **8.0 Applicable Provisions of Guidance under Section 182 Licensing Act 2003**

8.1 When considering this review application the panel may wish to consider Chapters 2, 10 and 11 of the Revised Statutory Guidance issued under section 182 of the Licensing Act 2003 - April 2018. These are attached as **Appendix 7**.

8.2 Chapter 11 of Revised Guidance issued under section 182 of the Licensing Act 2003 – April 2018 details the powers of a licensing authority on the determination of a review:

***11.16** The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.*

***11.17** The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.*

***11.18** However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.*

***11.19** Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*

- *modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
- *exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);*
- *remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- *suspend the licence for a period not exceeding three months;*
- *revoke the licence.*

***11.20** In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.*

***11.21** For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a*

*problem where the cause of the identified problem directly relates to poor management decisions made by that individual.*

*11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.*

*11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.*

## **9.0 RECOMMENDATION**

**That Members are asked to consider the review application and the representations made for Bramley Apple, 51 Church Street, Southwell, NG25 0HQ and take the steps as it considers appropriate for the promotion of the licensing objectives.**

**The steps available on determination of a review application are:**

- **To take no further action**
- **To issue a warning**
- **To modify the conditions of the licence**
- **To exclude a licensable activity from the scope of the licence**
- **To remove the designated premise supervisor**
- **To suspend the licence for up to three months**
- **To revoke the licence**

**A decision to modify conditions or exclude a licensable activity can be made on a permanent or temporary basis (for up to three months) depending on the particular issues raised.**

### List of Appendices

- Appendix 1 – Review Application Form
- Appendix 2 – Representations Received

Appendix 3 – Location Plan and Photos of the premises

Appendix 4 – Copy of the current licence

Appendix 5 – Responses to additional information requested by the licensing authority

Appendix 7 – NSDC Statement of Licensing Policy

Appendix 8 – Statutory Guidance

For further information please contact Nicola Kellas – Senior Licensing Officer on extension 5894.

Matt Finch

Director – Communities & Environment