



STROUD DISTRICT COUNCIL

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LICENSING ACT 2003

APPLICATION FOR A VARIATION OF A PREMISES LICENCE

PREMISES NAME	BRODY'S
PREMISES ADDRESS	7-8 HIGH STREET, STROUD, GL5 1AU
APPLICANT NAME/S	PAIGE GRIFFITHS AND TRACEY GRIFFITHS
APPLICATION TYPE	VARIATION OF PREMISES LICENCE
APPLICATION REFERENCE	22/00579/LAPRV
DATE OF HEARING	15 JULY 2022
DATE OF DECISION	15 JULY 2022
DECISION	APPLICATION GRANTED WITH CONDITIONS

BACKGROUND

On 20th May 2022 Stroud District Council ("the Council"), being the relevant Licensing Authority, received an application for a variation of the above Premises licence under section 34 Licensing Act 2003.

Following Representations from local residents, businesses and Stroud Town Council, the Council's licensing sub-committee ("the Panel") held a hearing on 15th July 2022 to determine the application.

HEARING

The Panel comprised of Councillors Chris Brine, John Jones and Nigel Prenter.

The Panel heard from the Licensing Manager, the Applicants (Paige Griffiths and Tracey Griffiths), the business manager (Matthew Griffiths) and the following Other Persons: Sunnie Fletcher, Miranda Haley and Tristrem Carlyon.

Consideration was given to relevant Representations received from Stroud Town Council and the other residents and businesses who were not present at the hearing. No Representations were received from the Responsible Authorities.

LEGAL MATTERS

The Panel had due regard to:

1. The provisions of the Licensing Act 2003 which confer the powers of the Licensing Authority to deal with the application;

2. The obligation to promote the four licensing objectives; and
3. The relevant sections of the Council's Statement of Licensing Policy and Statutory Guidance.

The Panel considered that it must carry out its functions with a view to promoting the four licensing objectives, as set out in Section 4(2) of the 2003 Act. The Panel cannot take into account Representations which do not relate to one or more of those licensing objectives, and acknowledges that any Representations which are received must be relevant and evidenced-based.

OTHER PERSONS' REPRESENTATIONS

In making oral representations to the Panel, the Other Persons highlighted a number of concerns around noise nuisance and anti-social behaviour, including:

- The Premises is situated in Stroud town centre and is within close proximity to many of the residents (one resident told the Panel they live within 150m of the Premises).
- Stroud town centre was described as having a large residential area with many of the residents living above or near to the Premises. There are also plans to develop further residential properties in the area.
- Residents described complaints of noise nuisance at the Premises dating back to March 2022. The noise is alleged to come from music being played inside the Premises, especially live music, and is said to be particularly bad on weekends.
- Residents were especially concerned about the transfer of noise through open doors and windows at the Premises. One resident said that they wanted to be able to keep their windows open in the hot weather but that it was too loud. Another resident said closing their windows didn't drown out the noise from the Premises.
- Residents described the noise as intolerable and having a highly detrimental impact on their quality of life. Residents described being unable to live in their properties.
- Residents also expressed concern about noise from rowdy customers entering/leaving the Premises and that this noise spills over onto the High Street.
- Residents said they had reported the noise disturbances to the Council's Environmental Health Service who told them it would be investigated. One resident told the Panel they reported it to their PSCO and another resident said they tried to report it to the Police. Another resident said they approached the Premises on one occasion and asked the door staff to keep the noise down, and that it was subsequently turned down.
- Residents had concerns that alcohol fuelled anti-social behaviour would be exacerbated by extended opening hours.
- Residents considered that there is a no drinking zone in Stroud Town Centre for good reason and that there would be no benefit on allowing drinking in the area directly outside the Premises.

This list is not exhaustive, but highlights some of the concerns expressed in the written and verbal submissions.

APPLICANT'S REPRESENTATIONS

The Applicant informed the Panel they operate as a bistro/bar with a capacity of 110. The Applicant explained that they want to be able to stay open later (midnight during the week and 2am at the weekend) to retain customers that are currently leaving and going to a nearby premises which closes at 2am.

The Applicant said the Premises is quiet during the week so they plan to hold quiz nights. At weekends, the Applicant informed the Panel that they play recorded music from 2 household speakers with a top decibel of 50. The Applicant acknowledged they had some issues with noise nuisance as a result of bands that were too loud for the Premises and assured the Panel that live music will be limited to an acoustic guitar once per month.

The Applicant considered that Stroud's night-time economy has been quieter as a result of Covid suggesting that current noise levels could not fairly be compared with noise levels during the last 2 years.

The Applicant also considered that not all the noise complaints referred to by Other Persons are linked to their Premises. The Applicant told the Panel that their Premises can get the blame for rowdy behaviour in the street not connected with their customers.

The Applicant said they had worked with the Police and Environmental Health and accepted the suggested conditions put forward as a way of addressing noise nuisance and anti-social behaviour. The Applicant specifically referenced the volunteered conditions for door staff and keeping the windows and doors closed to prevent the escape of noise. The Applicant confirmed the Premises has doors with brackets that close behind customers along with air conditioning inside the Premises.

The Applicant informed the Panel that the outside area is intended for customers who wish to enjoy non-alcoholic drinks during the day. The Applicant said their customers won't want to drink alcoholic drinks outside as they will be required to use a plastic glass. The Applicant told the Panel that they had no issue with restricting the times in which the outdoor area could be used.

The Applicant told the Panel that they currently use the front of the Premises for smoking but that they would consider re-locating their smoking area to the rear of the Property in order to cause less noise disturbance to nearby residents. The Panel did not have sufficient information about noise disturbance associated with smokers and determined that the Applicant should seek to minimise any issues around this noise in consultation with Police and the Council's Environmental Health Service.

The Panel took into account the concerns raised by the Other Parties and considered the comments of the Applicant regarding the steps which would be taken to promote the licensing objectives.

DECISION

The Panel decided to **GRANT** the application subject to the below modifications and the conditions set out in the Schedule:

Sales of alcohol for consumption on the premises only:

- Sunday to Thursday 11:00 to 23:30
- Friday and Saturday 11:00 to 00:00
- Bank Holidays and New Year's Eve 11:00 to 01:30

Opening Hours

- Sunday to Thursday 09:00 to 00:00
- Friday and Saturday 09:00 to 00:30
- Bank Holidays and New Year's Eve 09:00 to 02:00

Live Music and Recorded Music

- Sunday to Thursday 11:00 to 23:30
- Friday and Saturday 11:00 to 00:00
- Bank Holidays and New Year's Eve 11:00 to 01:30

Late Night Refreshment

- Sunday to Thursday 23:00 to 23:30
- Friday and Saturday 23:00 to 00:00
- Bank Holidays and New Year's Eve 23:00 to 01:30

Indoor Sporting events

- Monday and Thursday only 19:00 to 00:00

The Panel has granted the application to include the proposed outdoor area, as shown on the map attached to the Schedule. The operating times for licensable activities in the outdoor area are:

Outdoor area operating hours

- Monday to Sunday 09:00 to 19:00

In deciding the application, the Panel considered the fact that no Responsible Authorities had objected to the application. They also considered the steps put forward by the Applicant to promote the licensing objectives.

The Panel considered the character of the area, the residential amenity, the nature of the activities being carried out and the other premises currently operating in the area. The Panel noted that the Premises is located in the town centre with residential properties

nearby. The Panel were made aware that one premises operates until 2am and they found that other nearby premises close at midnight.

The Panel was satisfied, on the balance of probabilities, that the evidence showed previous noise nuisance from the venue. This noise was described as being particularly impactful during weekends. The Panel was very mindful of the impact of these public nuisance complaints on nearby residents. The Panel noted that the Applicant had already taken some measures to address the public nuisance issues and that conditions had been volunteered by the Applicant to address these risks.

In considering all of the evidence, the Panel determined that additional conditions could adequately mitigate the risk of public nuisance and promote the licensing objectives. For instance, the Panel considered that conditions such as a noise limiting device and a closed door policy would address the risk of noise escaping from the venue and would minimise the extent to which residents are disturbed late at night.

In view of the additional conditions and the town centre location, the Panel determined that it would be acceptable to grant an extension to the sale of alcohol and opening hours throughout the week, together with allowing live and recorded music during that time. However, the Panel was not minded to agree to the later times requested on the basis that there is an increased risk of public nuisance arising from the Premises staying open until 2am on weekends. Furthermore, the Panel was mindful that the premises referred to by the Applicant in support of the later closing time is located at the edge of Stroud town centre. The Panel therefore distinguished this from the current Premises.

The Panel was satisfied that allowing late night refreshment during the agreed extended hours would also be appropriate in view of the additional conditions. The Panel was also satisfied that the application for indoor sporting events could be granted as applied for.

As for the application to include an outdoor area to the front of the Premises, the Panel considered that there would be an increased risk of noise nuisance as a result of alcohol being consumed in this area until 9pm. The Panel has allowed the addition of the outdoor area subject to restrictions on the operating hours for licensable activities taking place in this area. The Applicant is reminded that they will need to apply for a pavement licence to place furniture in this outdoor area.

The Panel noted that any evidence of previous and future excessive noise could be dealt with by the statutory nuisance regime and that the Council has the power to review the licence in appropriate circumstances.

The Panel therefore decided that the licence will be subject to the conditions set out in the Schedule.

APPEAL

All parties are reminded that there are rights of appeal against this the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the Council's decision.

REVIEW

All parties are reminded of the procedures contained within the Licensing Act 2003 relating to the potential review of a premises licence. This provision allows the public, businesses or Responsible Authorities to apply for a review of a premises licence where problems arise, such as: crime and disorder, risks to public safety, public nuisance or failure to protect children from harm.

The Licensing Authority respectfully reminds all parties that for any review to be successful in restricting a licence, evidence would need to be collected of incidents occurring that demonstrated that the licensing objectives were not being adequately promoted. The Council's Environmental Health Service can be contacted out of hours to report complaints of excessive noise nuisance.

*Roslyn Howden
Clerk to the Panel
18 July 2022*

SCHEDULE

IMPOSED CONDITIONS

The Panel has granted the application subject to the following mandatory conditions:

1. Every Friday, Saturday, BH's and NYE there will be 2 x SIA registered Door Supervisors on duty from 20.00 hours until closing time.

When events are held at the premises on any other days, the Designated Premises Supervisor (DPS) will undertake a risk assessment to identify if SIA Door Supervisors are required. If required, then at least 2 x SIA Door Supervisors will be on duty from 20:00 hours until closing time. A copy of the risk assessment will be made available for Police and authorised officers of the Council on request.

2. No glass shall be taken outside the premises. Notices will be displayed at the entrance/exits requesting that patrons do not take any glass outside the premises and this will be enforced when SIA Door Supervisors are on duty.
3. Every Friday, Saturday, BH's and NYE there shall be no admission or re-admission to the building after 23:00 hours except for customers previously admitted to the building who wish to leave the building to smoke in the smoking area.
4. Notices will be displayed at the entrance/exits requesting that patrons leave the premises in a quiet manner and respect the local residents.
5. The External trading area shall be closed to customers from 19.00 hours daily.
6. All windows and doors shall be closed (other than for entry and exit) during times that regulated entertainment (to include the playing of live, amplified or recorded music) is taking place within the premises.
7. The following measures shall be implemented in relation to a noise limiting device:
 - a) Prior to the provision of regulated entertainment, the premises shall be fitted with an automatic noise limiting device, the location, design and specification to be approved in advance by the Environmental Health Service of Stroud District Council.
 - b) All regulated entertainment (to include the playing of live, amplified or recorded music) shall draw electrical power from sockets served by the noise limiting device.

- c) The noise limiting device shall have maximum levels set in agreement with the professional judgement of an Environmental Health professional employed by Stroud District Council.
 - d) The settings of the noise limiting device shall be secure and tamper-proof and shall not be altered without the prior written approval of the Environmental Health Service at Stroud District Council.
 - e) Any subsequent replacement or repair of the noise limiting device shall be subject to clauses (a) to (d) above prior to any subsequent provision of regulated entertainment.
8. The outdoor area shall have a rubbish disposal and arrangements shall be made for the regular collection of used drinking vessels from the outdoor area whilst it is operating.
9. An up-to-date Complaints Log shall be implemented and maintained detailing every complaint received in relation to noise nuisance and anti-social behaviour associated with the Premises. This log shall detail the time and date of the incident, details about the incident and any actions taken in response to the incident. Each entry shall be signed off by the Designated Premises Supervisor and retained for 3 years. The log shall be kept on the Premises at all times and made available upon request to the Police and the Environmental Health Service at Stroud District Council.
10. No licensable activities, including the consumption of alcohol, are permitted in the outdoor area outside the operating hours for this area.