

Our ref [REDACTED]
Your ref [REDACTED]

[REDACTED]

Direct tel [REDACTED]
Direct fax [REDACTED]

Date 10 May 2021
Email [REDACTED]

Dear [REDACTED]

**Our client - St Austell Brewery Co Limited
Blue Ball (The) Sandygate Exeter EX2 7JL**

**St Austell Brewery Limited – The Blue Ball, Sandygate, Exeter EX2 7JL
Application for replacement premises licence
Licensing Act 2003**

We are instructed by St Austell Brewery (**SAB**) in relation to the above premises and the application for a replacement licence

The licensing authority has forwarded to us your letter of representation to the application. In cases of this nature parties are encouraged to mediate to see if an agreement can be reached with a view to avoiding the necessity for a hearing. The purpose of this letter is to set out the background to the application, provide you with details of our clients proposal and to see whether or not an agreement can be reached. If we are able to reach agreement with all of those who have made representations then there will be no requirement for a hearing. If we are unable to reach an agreement then the matter will be determined, at a hearing, by the Councils Licensing Committee.

We understand that a hearing has been set for 19 May.

We enclose with this letter:

1. A copy of the current licence
2. Revised operating schedule

On behalf of my clients can we say at the outset that there is no intention on behalf of either SAB or the current tenant to change the nature and focus of the premises and that these will remain very much a food driven business.

The current manager, Adam Holland, took over the running of the Blue Ball in September 2019 and since his arrival he has been busy improving and creating a friendly local pub to be used by the local community. His intention was always to introduce himself and be part of the local community but unfortunately, as you will appreciate, the pandemic has made this difficult.

Adam and SAB remain committed to working with, and providing a pub for, the local community and are committed to working with the local residents to ensure that this happens

Background

The requirement for an application for the replacement licence has been brought about by the installation of a bar in the garden area of the premises.

On the granting of the application for the new licence (on whatever terms), the existing licence would be surrendered.

The application for the new licence is on the same terms as that which is currently in place save that a request has been made that the hours for the sale of alcohol on a Friday and Saturday are until 0100. This is dealt with below. The hours for the sale of alcohol for the remaining days of the week remain unchanged (the current permitted hours for the sale of alcohol are until midnight on each day of the week)

The application has also provided our clients the opportunity to update, amend and enhance the conditions that attach to the licence.

In case you were unaware, the current licence also already permits the provision of live music indoors and out from 1000 to 2330 on each day of the week.

All of this can be found on the enclosed existing premises licence.

The Application

Following the submission of the application, my client has engaged in a mediation process with the police and as a consequence of which an enhanced schedule of conditions (contained in the operating schedule attached) have been agreed.

In so far as the outside bar is concerned these include (at 6, 7 and 8) the following:

6. The external bar will only be used between the hours of 10.00 hours and 22.30 hours daily.
7. The external bar will be supervised at all times when in use.
8. The external bar will be inaccessible to customers when not in use to ensure they do not have access to any alcohol.

SAB has considered very carefully the comments that you have made in relation to both the extension of hours on Friday and Saturday, as well as the provision of entertainment and their position is as follows:

- Extension of Hours on Friday and Saturday

After careful consideration, SAB decided to withdraw this part of the application and the hours requested on these days will be as stated on the current licence.

In the event that a future application is made to vary the hours, SAB will let you know in advance of submitting the application.

- Live Music Indoors and Outdoors

In consideration of the comments that you have made, notwithstanding the current permission which authorises the provision of live music both indoors and out, 7 days a week, from 1000 to 2330, SAB is willing to amend their application as set out below:

Live music indoors – from 1000 to 2200

Live Music Outdoors – from 1000 to 2000

Suffice it to say that any live music would be provided on an occasional basis only, as is currently the case at the premises.

You will see from the attached operating schedule that a number of conditions have been offered in relation to this at 34 – 39 on the attached as follows:

34. Suitable signed at the exit to request the co-operation, of patrons in particular, to make as little noise as possible when leaving the premises.
35. Patrons will be asked not to stand around talking outside the premises or any car park and asked to leave the vicinity quickly and quietly.
36. When regulated entertainment is provided in the external areas of the premises, noise checks will be carried out at the nearest noise sensitive property. A noise check log ('the log') of these checks will be kept and maintained at the premises.
37. As a maximum the log will record the date and time of the check, the name of the person making the check, the sound level and if required, any action taken.
38. The log will be made available to an authorised officer upon request.
39. All live music will cease 30 minutes before the premises closes, and in any event no later than 2200 indoors and 2000 outdoors.

Summary

If we are able to agree the following with all of the residents who have made representations then the application will be amended accordingly as set out below:

- No change to the current permitted hours on Friday and Saturday
- To amend the application in so far as the performance of live music indoors and outdoors is concerned so that it reads as follows:

Live music indoors – from 1000 to 2200

Live Music Outdoors – from 1000 to 2000

- Revised operating schedule

If you are in a position to agree the above we would be grateful if you could please email the licensing authority (to whom we have sent a copy of this letter) at licensing@eastdevon.gov.uk and ourselves – ewen.macgregor@tltsolicitors.com – with confirmation of your agreement.

In the event that SAB are unable to agree the above with all of the residents who have made representations, our client reserves the right to pursue the application as submitted, with the revised conditions enclosed with this letter, at the hearing on the 19 May.

We hope that the above is helpful. Please be assured that SAB remain committed to working with the local community in providing a safe and enjoyable atmosphere for those who visit, and live nearby, the premises.

We look forward to hearing from you.

Yours faithfully

TLT LLP

The Blue Ball – Sandygate, Exeter, EX2 7JL

Proposed Operating Schedule

a) General – All Four Licensing Objectives (b, c, d and e)

1. If any premises licence application should be granted to a satisfactory standard, the existing premises licence will be surrendered.
2. The DPS will be an active member of the Pub watch.
3. The DPS will ensure that the public using the premises at all times have access to a telephone to call a taxi and will be provided with details of telephone numbers to call a taxi when required.
4. Non alcoholic drinks will be available at all times whilst the premises is open to the public.
5. There will be a 30 minute 'drinking up time' following the cessation of the supply of alcohol on the premises, on the expiry of which the premises will close.
6. The external bar will only be used between the hours of 10.00 hours and 22.30 hours daily.
7. The external bar will be supervised at all times when in use.
8. The external bar will be inaccessible to customers when not in use to ensure they do not have access to any alcohol.

b) The Prevention of Crime and Disorder

CCTV

9. The premises shall install operate and maintain a comprehensive digital colour CCTV
10. CCTV will cover all entry and exit points, the internal and external bar areas, internal customer areas and the external patio immediately adjacent to the rear of the premises
11. The system must record clear images permitting the identification of individuals, and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition.
12. The CCTV system will continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises.
13. All equipment must have a constant and accurate time and date generation.
14. All recordings will be stored for a minimum period of 31 days with date and time stamping.
15. Viewable copies of recordings will be provided on request to the Police or local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 2018 (or any replacement legislation) a staff member from the premises who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open.

16. This staff member must be able to provide an authorised officer of a responsible authority, copies of recent CCTV images or data with absolute minimum of delay when requested in accordance with the Data Protection Act 2018 (or any replacement legislation).
17. The CCTV system will be capable of downloading images to a recognisable viewable format.
18. There will be security measures in place to ensure the integrity of the system to prevent the tampering with, and deletion of, images.
19. The DPS will undertake a risk assessment in relation to any night where regulated entertainment and/or sale of alcohol is provided at the premises past 23:00hrs in order to determine whether SIA door staff will be required to promote the licensing objectives.
20. Where the risk assessment identifies the need for SIA door staff, there will be a minimum of two these will be provided at the times deemed by the risk assessment to be appropriate in the circumstances.
21. This risk-assessment can be undertaken once in relation to a series of nights where the same entertainment is to be provided (for instance, regular Friday night discos), so long as it is revisited regularly to ensure that the risk assessment remains appropriate for that night.
22. The risk assessment is to be in written form and kept at the premises for at least 30 days after the night or series of nights to which it relates and be made available to responsible authorities upon request.

c) Public Safety

23. The outside of the premises will be illuminated at all times that the premises are open to use of the public.
24. The emergency lighting with which the premises are provided shall be maintained in efficient working order and be in good operation during the whole time that the public are in the premises.
25. The existing system must illuminate all exit signs, doorways, step and passages forming exit routes from the licensed premises and including the gardens and car park and shall be independent of the normal lighting system.
26. Oil lamps and candles shall not be used.
27. There will be regular collection of glassware, ashtrays from public areas of the premises throughout opening hours.
28. All exit signs shall be maintained in a good state of repair.
29. All rubbish produced by the premises will be stored securely in a designated area.
30. Facilities for depositing litter and the collection of litter generated by patrons will be available and maintained where outside areas are provide for use of patrons.
31. There will be regular collections of litter.
32. Appropriate fire safety measures will be installed and maintained as shown on the drawings accompanying this application.

33. The DPS/ manager will undertake a weekly inspection of the public areas of the premises to identify anything might present an identifiable risk to public safety. Any risks identified that are deemed to be unreasonable must be rectified at the earliest possible opportunity.

d) The Prevention of Public Nuisance

34. Suitable signs at the exit to request the co-operation, of patrons in particular, to make as little noise as possible when leaving the premises.
35. Patrons will be asked not to stand around talking outside the premises or any car park and asked to leave the vicinity quickly and quietly.
36. When regulated entertainment is provided in the external areas of the premises, noise checks will be carried out at the nearest noise sensitive property. A noise check log ('the log') of these checks will be kept and maintained at the premises.
37. As a maximum the log will record the date and time of the check, the name of the person making the check, the sound level and if required, any action taken.
38. The log will be made available to an authorised officer upon request.
39. All live music will cease 30 minutes before the premises closes, and in any event no later than 2200.

e) The Protection of Children from Harm

40. Children are to be supervised by a responsible adult at all times.
41. Children shall not be permitted on the premises after 21:00 hours unless taking part in a function or table meal, when they shall be permitted to remain on the premises until the end of that meal or function.

CHALLENGE 25

42. There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:
 - A photo driving licence
 - A passport
 - An identification card carrying the PASS hologram
43. Unless such identification is produced the sale of alcohol must be refused.

44. This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18.

REFUSALS REGISTER

45. An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:

- i. the date and time of refusal
- ii. the reason for refusal
- iii. details of the person refusing the sale
- iv. description of the customer
- v. any other relevant observations.

46. The refusals register will be made available for inspection and copying on request of an authorised officer of a responsible authority.

47. All entries must be made within 24 hours of the refusal.