

**For publication**

**Application for a New Premises Licence by Beverley Paterson  
in respect of  
The Bistro at Dunston Hall Garden Centre,  
Dunston Road, Dunston, Chesterfield, S41 9RL (LC170)**

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Meeting: Licensing Committee

Date: Wednesday 31<sup>st</sup> March 2021

Cabinet portfolio: Health and Wellbeing

Report by: Meredith Ezard, Licensing Officer

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**1.0 Purpose of report**

1.1 To enable determination of the application made by Beverley Paterson for a new premises licence in respect of

The Bistro at Dunston Hall Garden Centre,  
Dunston Road,  
Dunston,  
Chesterfield,  
S41 9RL

1.2 Relevant representations have been made in respect of the application and not withdrawn. Consequently, the application

cannot be granted or refused under officer delegated authority.

## 2.0 **Recommendation.**

That the Committee hear details of this license application and determine whether it is

- Granted
- granted with condition / modification
- or refused.

2.1 Copies of the Application Form and premise plan are attached to this report at Appendix 1 and 2.

## 3.0 **Report Details.**

3.1 The premise has previously traded as a coffee shop at the Dunston Hall garden centre.

3.2 The garden centre is situated in a rural location, surrounded predominantly by open land, with private residential properties to the side and rear of the site.

3.3 The photograph below shows the location.



#### 4.0 **Application**

4.1 The application was received on 5<sup>th</sup> February 2021 to licence a restaurant in the garden centre's coffee shop area.

4.2 The applicant describes the premises as below.  
"The restaurant is attached to a garden centre. It is set back off the road and is enclosed with a fence and gates. Alcohol will be served in a restaurant setting and provide an outside children's play area with beer garden within the enclosed area."

4.3 The application seeks the sale and supply of alcohol (both on and off the premises) daily between 12 midday and 11.00 pm. The opening hours proposed are 08.30 am to 11.00 pm.

4.4 Applications for a new Premises Licence are required to be advertised by way of an advert in the local press, a site notice displayed at the premises, inclusion on the Local Authority's

web page and copies of the application submitted to all Responsible Authorities.

- 4.5 The appropriate local press public notice appeared in the Derbyshire Times newspaper on Thursday 18<sup>th</sup> February 2021.
- 4.6 It should be noted that the notice also appeared in the newspaper on 11<sup>th</sup> February but was incorrect. The publisher failed to enter the correct details for the last date for representations. This was remedied in the following week's publication.
- 4.7 The site notices displayed on the premises, advertising the application were viewed by licensing enforcement staff on Wednesday 17<sup>th</sup> February 2021.  
Four notices were found on display, three on the boundary fence adjacent to Dunston Road and one on the fence at the entrance to the garden centre.
- 4.8 Upon inspection, the final date for representations thereon was found to be 4<sup>th</sup> March 2021 when the required date should have been 5<sup>th</sup> March 2021. The applicant was informed of the error and asked to amend the forms.
- 4.9 The notices were rechecked on Thursday 18<sup>th</sup> February and found to have been amended to show the correct end date.
- 4.10 Mr Lander, resident at a neighbouring property states that the notices were not placed on display at the time of application but instead were displayed sometime after 1.00 pm on Thursday 18<sup>th</sup> February.
- 4.11 The applicant states the notices were placed on display on 4<sup>th</sup> February 2021.
- 4.12 Should it be considered that the notices were not in place at the appropriate time, the application would be invalid.

- 4.13 The application form and plan were posted on Chesterfield Borough Council's Licensing Department web page.
- 4.14 The application was submitted by email. The Licensing Authority circulated a copy of the application to the responsible Authorities.
- 4.15 The statutory deadline for representation was 5<sup>th</sup> March 2021. Responsible Authorities and Interested Parties are entitled to make representations to the Licensing Authority provided they are relevant.
- 4.16 No representations have been received from the Responsible Authorities.
- 4.17 Two representations have been received from the occupants of adjacent residential properties.
- 4.18 The representations relate to one or more of the licensing objectives which are: -
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - protection of children from harm
- 4.19 The representation forms can be seen in full at Appendices 3 and 4. The location of the residential properties (which are the source of the representations) in relation to the garden centre can be seen in the aerial photograph at appendix 5 where they are identified with a white arrow.
- 4.20 The representations express concerns over:
- Alcohol consumption leading to inhibitions being lowered and thus a greater chance of criminal damage and public disorder occurring; such as damage to parked vehicles and private property, loud shouting and

fighting. These acts are more prevalent in areas out of public scrutiny and in areas of poor lighting.

- Customers who are asked to leave the venue after over-consumption of alcohol who may then drink and drive or potentially be a nuisance if they enter adjacent properties.
- The lack of other properties within half a mile of the proposed venue. (Please see photograph at 3.3)
- The terminal hour of 2300 hours which is well into the hours of darkness.
- The only access being by vehicle or on foot along Dunston Road which has a 50 mph limit, a series of blind bends, no footpaths and no street lighting. If walking, customers will be at risk from passing motor vehicles, more so if they are intoxicated. If travelling by vehicle, the potential for drinking and driving is obvious.
- New nearby housing estates may attract customers who walk to the venue along Dunston Road.
- There being no current issue with crime or disorder attributable to the sale of alcohol at this location.
- The potential for litter from drinks containers to be dropped and for urinating in the street.
- Shared boundaries and associated noise issues.
- The close proximity of the outside consumption area impacting upon the quality of life of residents next door. The representation at appendix 3 also includes a plan to better explain these concerns and should be viewed with the full representation.
- The previous closing time of 6.00 pm is greatly extended, again impacting upon those living nearby.
- Construction of a children's adventure playground at the venue which affords views into neighbouring properties.
- Lack of planning permissions for the adventure playground and for a gateway cut into the garden wall adjacent to the fire escape.

- Access to the private residential property at the rear of the premises via a single track which is narrow and has no turning points. Customers accessing this by mistake would cause nuisance.
- Increased deliveries associated with the activities at the bistro which would add to the congestion already caused by deliveries to the garden centre, increasing the risk of accidents.
- Availability of parking space and the associated nuisance where demand outstrips supply.
- Animal welfare, with protected species such as the owls and bats that frequent the area being negatively affected by any outside lighting erected for the evening use of the car park.
- The public notices not being displayed around the venue for the correct period of time.
- Lack of consultation with neighbours prior to application.

4.21 As part of the application process the applicant is required to describe in the operating schedule the additional steps that are intended to be taken in order to promote the licensing objectives for the new premises licence that has been requested.

4.22 Under the Licensing Act 2003 these volunteered proposed steps will be attached to the premises licence as conditions which must be complied with. These are set out in Part M of the application form.

## 5.0 **Conclusion**

5.1 When carrying out its licensing functions, the Licensing Authority must do so with a view to promoting the four licensing objectives and also with regard to its Statement of

Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

- 5.2 Where either the applicant or a person who makes relevant representations is aggrieved by the decision of the Licensing Authority, appeal is to the Magistrates' Court.
- 5.3 As relevant representations have been made in respect of the application and not withdrawn, the application cannot be granted or refused under officer delegated authority.
- 5.4 The Licensing Committee is therefore asked to consider the application and determine it by
  - granting it as requested
  - granting it subject to condition / modification
  - or refusing the application.

Meredith Ezard  
LICENSING OFFICER  
22.03.2021

For more information on this report please contact the author,  
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