

APPLICATION FOR A PREMISES LICENCE - CLUB ANGEL, ASSEMBLY ROOMS, MARKET PLACE, BOSTON

**Boston Borough Council
Licensing Act 2003
Application for a Premises Licence
Decision Notice**

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| Date of hearing | 28 September 2021 |
| Members of Sub-Committee | Councillor J Noble Councillor F Pickett Councillor J Welbourn |
| Applicant(s) Name | Mrs S Acinik |
| Premises Address | Club Angel, Assembly Rooms, Market Place, Boston |
| Date Application Received | 21 July 2021 |
| Details of Application | Application for a premises Licence under the S17 of the Licensing Act 2003 |

The Parties:

The Sub-Committee heard from the applicants husband (Mr Acinik), Mr Clark (the landlord of the relevant building, and existing Premises Licence Holder), Ms Lovely (a local objector) and Mr Robbie in support of Ms Lovely, along with the Council's Licensing Officer (Miss McDowell)

Policy and Guidance:

In reaching its decision the Sub-Committee has had due regard for all that they have read, heard and seen, and has considered the statutory guidance issued under Section 182 of the Licensing Act 2003, along with the Council's Statement of Licensing Policy

Licensing Objectives:

The Sub-Committee has found that the Licensing Objectives of the Prevention of Public Nuisance is relevant to the application.

Decision and Reasons:

The Sub-Committee has read and heard all of the information before them. In reaching its decision, the Sub-Committee is aware of and has taken into account any implications that may arise from the Human Rights Act 1998, and has considered its Public Sector Equality duty under Section 149 of the Equality Act 2010. The Sub-Committee considers that in reaching their decision, that they due regard for the duty placed upon them by Section 149 of the 2010 Act. The Sub-Committee had provisionally been made aware that the Applicant was unable to attend the hearing but that her husband would represent her, along with support from Mr Clark. In reaching their decision the Sub-Committee has considered all that they have read and heard, and have had due regard for the Licensing Objectives, the s 182 Guidance and the Council's Statement of Licensing Policy.

Of particular note to the Sub-Committee was that this was in effect an application for a shadow premises licence, to mirror the existing premises licence, to regulate the new operating situation at the premises. The Sub-Committee also had regard for the fact that there are no changes proposed at the premises as a result of this application, and how the premises has operated under the existing premises licence for a number of years. The Sub-Committee additionally noted that there have been no representations received from any responsible authorities, nor is there a history of issues related to the premises being put to the Sub-Committee by a responsible authority.

The Sub-Committee noted that Ms Lovely has experienced disturbance from bass noise late at night/early morning since July 2021, and that she associates this to be with the premises as other nearby licensed premises shut earlier the Sub-Committee heard from Mr Robbie that a nearby building is now empty, and noted his comments that perhaps where the building may have previously provided a buffer for sound/bass noise, it no longer did.

The Sub-Committee have therefore decided that it is reasonable and proportionate to the promotion of the Licensing Objectives to grant the premises licence as applied for, but subject to there first being a full acoustic assessment undertaken in respect of the premises by an independent and suitably qualified acoustician/company to assess the noise breakdown from within the premises and make recommendations as to any acoustic improvements required. The Sub-Committee require the applicant to provide the Licensing Officer with a copy of the acoustician's /company's report, and for the applicant to implement all of the recommendations made therein. Upon sign off the Licensing Officer that the recommendations have been implemented, the Sub-Committee are satisfied that the premises licence can be granted. The Sub-Committee consider their decision to grant the application subject to the prior acoustic assessment, is reasonable and proportionate of safeguard and promote the Licensing Objectives; especially of the prevention of public nuisance, on the basis that, notwithstanding there is no history of issues at the premises from responsible authorities, since the premises

was last acoustically assessed a nearby building now stands empty, and this may have altered the acoustics as a result.

Accordingly, the Sub-Committee have decided to grant the application subject to a prior acoustic assessment as set out above.

Appeal:

There is a right of appeal to the Magistrates' Court under Section 181 of the Licensing Act 2003 . The appeal must be commenced by a notice of appeal to the Justices' Chief Executive for the Magistrates Court within the period of 21 days beginning with the day on which the applicant was notified by the Licensing Authority of the decision being appealed against.

Any appeal should be sent to: Lincoln Magistrates Court, 358 High St, Lincoln LN5 7QA

This decision does not take effect until the end of the appeal period or if the decision is appealed, when the appeal is disposed of.

Upon hearing an appeal the Magistrates' Court may

- a) Dismiss the appeal,
- b) Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
- c) Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

And make such order as to costs it thinks fit.