

Committee: Licensing Committee

Agenda Item

Date: 3rd June 2011

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Title: Application to vary a Premises Licence -
The Crown House, Great Chesterford.

Author: Murray Hardy, Licensing Officer.

Item for decision

Summary

1. This report sets out an application for the variation of a Premises Licence in respect of the above. Representations have been made to this application so therefore this matter has been referred to the Committee for deliberation.

Recommendations

2. The application is determined

In the event of an appeal against the decision of the Licensing Authority, then a member is nominated to represent the Authority at Court.

Background Papers

3. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Operating Schedule

Representations from interested parties

Location of premises

Plan of premises

Current Premises Licence

Suggested series of noise levels from The Principal Environmental Health Officer

Representation from Principal Environmental Health Officer

Impact

- 4.

Communication/Consultation	Details of the application were conveyed to Members of Uttlesford District Council, The Parish Council, and adjoining residents
Community Safety	None
Equalities	None

Health and Safety	None
Human Rights/Legal Implications	<p>Under Article 1 First Protocol to the European peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context. Where an applicant for a licence (or by inference a variation to a licence) wishes to contend that a certain noise limit is appropriate in given situations then it is for the applicant to establish that to the satisfaction of the committee on the balance of probabilities. This can most easily be achieved by a noise survey which (on the authority of the case Uttlesford DC v English Heritage) should be supplied by the applicant at his/her expense.</p> <p>In the event that an applicant, responsible authority or interested party is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court.</p>
Sustainability	None
Ward-specific impacts	The Chesterfords being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. The Crown House is situated in Newmarket Road, Great Chesterford close to the junction with Church Street.
6. A premises licence was first issued for these premises under the Licensing Act 2003 following an application to convert their existing Justices Licence on 15th July 2005.
7. The current premises licence permits the following licensable activities
 - (a) Playing of recorded music (indoors only)

Monday to Saturday	11.00am to 12 midnight
Sunday	12 noon to 11.30pm

- (b) The sale by retail of alcohol for consumption both on and off the premises

Monday to Saturday	11.00am to 12 midnight
Sunday	12 noon to 11 30pm

- (c) The hours the premises are open to the public

Monday to Saturday	11.00am to 12.30am
Sunday	12 noon to 12.midnight

8. Listed at Annexe 1 are the current mandatory conditions attached to this licence.
9. The proprietor of the premises is Elizabeth Igglesden who is seeking a variation to the current licence by increasing the licensable activities in respect of regulated entertainment, adding late night refreshment and extending the times permitted involving the sale of alcohol by retail.
10. In accordance with the Licensing Act 2003 where an applicant submits documentation for the variation of a premises licence then included must be an operating schedule. This demonstrates how the licensing objectives will be met and also seeks to outline what licensable activities are sought
11. The licensable activities now being sought are listed below

- (a) Live Music (Indoors and Outdoors)

Monday to Saturday	12noon to 12midnight
Sunday	12noon to 11.30pm

- (b) Recorded Music (Indoors Only)

Monday to Saturday	11am to 12midnight
Sunday	12noon to 11.30pm

- (c) Performance of dance (Indoors and Outdoors)

Monday to Saturday	12noon to 12midnight
Sunday	12noon to 11.30pm

- (d) Provision of facilities for dancing (Indoors Only)

Monday to Saturday	12noon to 12midnight
Sunday	12noon to 11.30pm

- (e) Late Night Refreshment (Indoors Only)

Monday to Saturday	11pm to 12.30am
Sunday	11pm to 12midnight

(f) The sale by retail of alcohol for consumption both on and off the premises

Monday to Saturday
Sunday

11am to 12.30am
11am to 12midnight

(g) The hours the premises are open to the public

Monday to Saturday
Sunday

11am to 12.30am
11am to 12midnight

12. The operating schedule indicates the following measures will be taken to promote the licensing objective regarding the prevention of crime and disorder

Keep adequate checks to prevent under age drinking

Liaise with the local Police in order to maintain a good relationship and support if required

Ensure that the premises is secure and minimise cash kept on site.

13. The operating schedule indicates the following measures will be taken to promote the licensing objective regarding public safety

Ensure that health and hygiene requirements are met.

Ensure that the premises meet the Fire Service requirements, Fire Alarms, Emergency Lighting and Extinguishers are routinely checked as required by law.

Electrical appliances are PAT Tested according to the assessment risk of The Crown House.

14. The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the prevention of public nuisance.

Ensure that guest's behaviour and drinking is acceptable.

The staff must not continue to provide alcohol to any guests where their behaviour is likely to become a nuisance.

Ensure that staff have clear instructions on how to deal with guests who become a public nuisance and if necessary request police assistance.

15. The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the protection of children from harm.

Ensure that under age drinking is not permitted on the premises.

Ensure that staff are aware of the restrictions of their age when serving alcohol (Members of staff who are aged 16 to 18 years).

Ensure that children are not exposed to unacceptable behaviour on the premises.

16. Copies of this application have been served on all of the statutory bodies which have attracted no representations with the exception of the Principal Environmental Health Officer.
17. Representations have been received from interested parties based on the licensing objective that relates to the prevention of public nuisance. It is feared that additional noise and disturbance will be created by permitting live or recorded music to be played at the premises together accompanied by the application for late night refreshment and the extension of permitted hours for the sale of alcohol would increase that disturbance.
18. Correspondence has been sent by The Principal Environmental Health Officer to the applicant suggesting that there should be conditions relating to noise levels as follows:-

Music from the premises measured as a 5 minute Leq at the nearest point on the boundary with The Close will not exceed the following levels.

Before 9pm 60 dB (A)

Between 9pm and 11pm 53 dB (A)

After 11pm 45 dB (A)

Members will be aware that these levels are higher than the default option of 34 decibels currently being consulted on as a suggested revision to the Council's licensing policy. The applicant has not agreed the proposed levels at the time of the preparation of this report, nor has the applicant produced a noise survey indicating that alternative levels would meet the licensing objective of the prevention of public nuisance.

- 19 In carrying out the statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:-

The prevention of crime and disorder
Public safety
The prevention of public nuisance
The protection of children from harm

- 20 The decision that the Committee can make for this application is to

Grant the application
Modify the application by inserting conditions
Remove a licensable activity from the application
Reject the application

- 21 When determining an application due regard should be given to the Council's licensing policy and the Secretary of State's Guidance issued in accordance of the Act.

- 22 If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are necessary and

proportionate to promote the licensing objective relative to the presentations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
1 Either no conditions are attached to the licence on variation or the conditions do not satisfactorily achieve the licensing objective of prevention of public nuisance.	2 There is a possibility that local residents will suffer from nuisance even if what appears to be appropriate conditions are imposed.	2 Due to the availability of the review procedure any inconvenience which may be suffered by local residents would be relatively short lived.	In the event of complaints of nuisance being received after the variation takes effect then Environmental Health Officers monitor the situation and apply for a review of the licence if it is considered necessary.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.