

Committee: Licensing and Environmental Health Committee

Agenda Item

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Date: 28 June 2011

Title: Application for the grant of a Premises Licence - Linden House, Stansted.

Author: Murray Hardy, Licensing Officer.

Item for decision

Summary

1. This report sets out an application for the grant of a Premises Licence in respect of the above. Representations have been made to this application so therefore this matter has been deferred 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
Statement of Licensing Policy
Secretary of State's Guidance
Representations from Essex Police
Representations from the Principal Environmental Health Officer
Plan Submitted Marked (A) by the Principal Environmental Health Officer
Letters of support for premises

Impact

- 4.

Communication/Consultation	Details of the application was conveyed to Members of Uttlesford District Council, The Parish Council, Statutory Bodies and adjoining residents
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Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	<p>Under Article 1 First Protocol to the European Convention on Human Rights every person is entitled to 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	Stansted South being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. Linden House is situated at 1-3 Silver Street, Stansted close to the junction with Chapel Hill. It can be described as being in a central position in the village of Stansted Mountfitchet.
6. The premises can be described as a restaurant with a bar on the ground floor with facilities for guests to stay in accommodation overnight upstairs if required.

7. The applicants for this new premises Licence are Sarah and Karl Foster with Mr Foster nominated to be the designated premises supervisor.
8. In accordance with the Licensing Act 2003 where an applicant submits documentation for the grant 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.
9. The licensable activities being sought in respect of this application are listed below
- (a) Live Music (Indoors Only)
- | | |
|---------------------|--------------------|
| Monday to Thursday | 9am to 12midnight |
| Friday and Saturday | 9am to 1am |
| Sunday | 9am to 12 midnight |
- (b) Recorded Music (Indoors Only)
- | | |
|---------------------|--------------------|
| Monday to Thursday | 9am to 12midnight |
| Friday and Saturday | 9am to 1am |
| Sunday | 9am to 12 midnight |
- (c) Performance of dance (Indoors Only)
- | | |
|---------------------|--------------------|
| Monday to Thursday | 9am to 12 midnight |
| Friday and Saturday | 9am to 1 am |
| Sunday | 9am to 12 midnight |
- (d) Provision of facilities for dancing (Indoors Only)
- | | |
|---------------------|--------------------|
| Monday to Thursday | 9am to 12 midnight |
| Friday and Saturday | 9am to 1am |
| Sunday | 9am to 12 midnight |
- (e) Late Night Refreshment (Indoors Only)
- | | |
|---------------------|---------------------|
| Monday to Thursday | 11pm to 12.midnight |
| Friday and Saturday | 11pm to 1am |
| Sunday | 11pm to 12midnight |
- (f) The sale by retail of alcohol for consumption both on and off the premises
- | | |
|---------------------|--------------------|
| Monday to Thursday | 9am to 12 midnight |
| Friday and Saturday | 9am to 1am |
| Sunday | 9am to 12 midnight |
- (g) The hours the premises are open to the public
- | | |
|--------------------|--------------------|
| Monday to Thursday | 9am to 12 midnight |
|--------------------|--------------------|

Friday and Thursday
Sunday

9am to 1am
9am to 12 midnight

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

CCTV cameras have been installed which are sited across the premises which cover all of the licensed areas. All recordings will be kept for a period of 31 days and will be made available to Essex Police and an authorised officer upon request. Relevant staff training will be given on the use of the CCTV system including the downloading of images.

The premises will operate a strict zero drugs policy and staff will be trained to inspect areas within the premises to reinforce this and they will report any suspicious behaviour to the designated premises supervisor.

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

External lighting will be at both the front and rear of the building for customers' use when leaving the premises. All the relevant risk assessments will be undertaken before the premises are open and will be reviewed and updated on a regular basis. Files will be made available to authorised officers upon request.

At least one person qualified in First Aid will be on site at all times.

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

When live music is playing members of staff will regularly ensure that the noise levels outside remain minimal. Signage will be displayed requesting that patrons and smokers using the external terraces are respectful of the neighbours and that the terraces for patrons will be closed after 11pm. This situation will be monitored at all times so as to maintain good relations with their neighbours.

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

The applicants will adopt a Challenge 21 policy and ensure that all staff are properly trained in the legal and responsible sale of alcohol.

14. Copies of this application have been served on all of the statutory bodies which have attracted representations from the Principal Environmental Health Officer and Essex Police. The representations from the Police are based on the licensing objective that relates to the prevention of crime and disorder who are concerned that as the premises are situated in a residential area, incidents have been reported to them regarding anti social behaviour emanating from the Silver Street **area** in spring and summer of 2010.

15. 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.
16. The representations received from The Principal Environmental Health Officer that relate to the prevention of public nuisance would be withdrawn if the following condition were imposed:-

Music from the premises measured as a 5 minute Leq shall not exceed 45dB(A) at a point 1m from the façade of The Coach House as indicated on the map submitted by the Principal Environmental Health Officer.
17. Members will be aware that these levels are higher than the default option of 34 decibels which has been 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.
18. 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
19. 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
20. 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. I would refer members to paragraphs 2.1 to 2.18 and 2.32 to 2.40 of that guidance which deals with the licensing objectives regarding the prevention of crime and disorder, and the prevention of public nuisance.
21. 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

22.

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 crime and disorder and public nuisance being received after the grant of any licence being issued then Environmental Health Officers monitor the situation together with Essex Police 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.