

Committee:	Licensing Committee	Agenda Item 2
Date:	17th April 2013	
Title:	Application to vary a Premises Licence - The Saracens Head, Great Dunmow	
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

Impact

- 4.

Communication/Consultation	Details of the application was conveyed to Members of Uttlesford District Council, The Town Council, and adjoining residents
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Under Article 1 First Protocol to the European peaceful enjoyment of their possessions which includes property. This

	<p>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.</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	Great Dunmow South being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. The Saracens Head Hotel is situated in High Street, Great Dunmow opposite Market Place and can be described as being centrally located within the town.
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 24th October 2005.
7. The current premises licence permits the following licensable activities
 - (a) Performance of live music (indoors only)

Friday and Saturday	8.00pm to 12 midnight
---------------------	-----------------------
 - (b) Playing of recorded music (indoors only)

Monday to Thursday	11.00am to 11pm
Friday and Saturday	11am to 12 midnight
Sunday	12 noon to 10 30pm
 - (c) The sale by retail of alcohol for consumption on and off the premises

Monday to Saturday	11.00am to 11pm
Sunday	12 noon to 10.30pm

Alcohol may be supplied without limitation to persons residing at the premises and their bona fide guests.
 - (d) The opening hours of the premises

Monday to Thursday	11am to 11pm
--------------------	--------------

Friday and Saturday
Sunday

11am to 12 midnight
12 noon to 10.30pm

8. Listed at Annexe 1 are the current mandatory conditions attached to this licence.
9. The holder of the premises licence are Cozy Pubs Ltd who are 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) Films (Indoors Only)

Monday to Thursday	10am to 12 midnight
Friday and Saturday	10am to 1am
Sunday	11am to 12 midnight

(b) Live Music (Indoors Only)

Monday to Wednesday	10am to 12midnight
Thursday to Saturday	10am to 1am
Sunday	10am to 12 midnight

(c) Recorded Music (Indoors Only)

Monday to Wednesday	10am to 12 midnight
Thursday to Saturday	10am to 1am
Sunday	10am to 12 midnight

(d) Late Night Refreshment (Indoors Only)

Monday to Wednesday	11pm to 12 midnight
Thursday to Saturday	11pm to 1am
Sunday	11pm to 12 midnight

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

Monday to Wednesday	10am to 12.midnight
Thursday to Saturday	10am to 1am
Sunday	10am to 12midnight

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

Monday to Wednesday	10am to 12.30am
Thursday to Saturday	10am to 1.30am

Sunday

10am to 12.30am

12. The operating schedule indicates no further risks have been identified which need to be addressed however the following conditions have been agreed with Essex Police in order to promote the licensing objective regarding the prevention of crime and disorder

A minimum of 2 door staff shall be employed from 21.00 hours until close on any day of the week that the premises trades beyond midnight

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition

Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale/supply of alcohol occurs

Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order, numbered sequentially and kept for a period of 31 days and handed to the police or authorised officer on request.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable of and competent at downloading CCTV footage in a recordable format either disc or VHS to the local Police or authorised officer.

The recording equipment and tapes/disc shall be kept in a secure environment under the control of the DPS or other responsible named individual.

An operational daily log report must be maintained endorsed by signature, including the system has been checked and is compliant, in the event of any failings actions are to be recorded

In the event of technical failure of the CCTV equipment the Premises Licence Holder/DPS must report the failure to the Police on contact number 0300 333 4444 immediately.

13. The operating schedule indicates no further risks have been identified which need to be addressed in order to promote the licensing objective regarding public safety.
14. The operating schedule indicates no further risks have been identified which need to be addressed in order to promote the licensing objective regarding the prevention of public nuisance.
15. The operating schedule indicates that the following measures will be taken to promote the licensing objective regarding the protection of children from harm.
- The restrictions set out in the Licensing Act 2003 will apply and that no unusual or additional risks of harm to children have been identified.
16. Copies of this application have been served on all of the statutory bodies which have attracted no representations.

17. Representations have been received from interested parties based on the licensing objectives that relates to the prevention of crime and disorder, public safety and the prevention of public nuisance. It is feared that with the proposed increase in licensable activities then this could lead to public order situations developing which could comprise public safety at night. Furthermore it is believed in respect of the increase in hours for regulated entertainment then this could lead to noise nuisance being generated either when this activity is in force and when patrons leave the premises late at night.
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
 - Reject the whole or part of 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.
21. The relevant sections of the Council's licensing policy are;-
 - 3.1 The Licensing Authority is committed to further improve the quality of life for the people of the District of Uttlesford by continuing to reduce crime and the fear of crime.
 - 3.3 The promotion of the licensing objective, to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.
 - 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule in the event that representations are received, having regard to their particular type of premises and/or activities:
 - Effective and responsible management of premises
 - Training and supervision of staff
 - Adoption of best practice guidance (eg Safer Clubbing, then National Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions eg The Point of Sale Promotions

published by BBPA, Security in design published by BBPA and Drugs and Pubs published by BBPA

- Acceptance of accredited “proof of age” cards eg PASS, locally approved “proof of age” cards eg “Prove It” and/or “new type” driving licences with photographs or adoption of industry best practice eg Challenge 21 policy
- Provision of effective CCTV and mirrors in and around the premises
- Employment of Security Industry Authority licensed doorstaff
- Provision of toughened or plastic drinking vessels
- Provision of secure deposit boxes for confiscated items (sin bins)
- Provision of litterbins and other security measures, such as lighting outside the premises
- Membership of local “Pubwatch” schemes or similar organisations

4.1 The Licensing Authority is committed to ensuring that safety of any person visiting or working in licensed is not compromised. If representations are made applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

4.2 When addressing the issue of public safety, an applicant should consider those factors that impact on the standards of public safety. These may include:

- The occupancy capacity of the premises
- The age, design and layout of the premises, including means of escape in the event of fire
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided (if different))
- Customer profile (eg age, disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide

5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours where licensed premises are in or near residential areas and where relevant representations have been received.

Conversely premises which can demonstrate that they have effective measures planned to prevent public nuisance, may be suitable for 24 hour opening

5.6 If representations are made applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events

22 The relevant sections of the guidance issued by the Secretary of State are:-

2.7 It will normally be the responsibility of the premises licence holder as an employee, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, the licensing authority must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

2.11 Licence holders should make provision to ensure that premises users safely leave their premises.

Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks

2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from the premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden on smaller venues.

2.22 Where applications have given rise to representations, for appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address and disturbance anticipated as customers enter and leave.

2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be

perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

- 23 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

24

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 objectives the prevention of crime and disorder, public safety and the prevention of public nuisance.	2 There is a possibility that local residents will suffer from crime and disorder and public 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 or noise nuisance being received after the variation takes effect then Essex Police and/or 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.