

Committee:	Licensing Committee	Agenda Item 6
Date:	December 2013	
Title:	Application for the grant of a Premises Licence – The Plough Inn Radwinter	
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 attend 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

Representations from the Environmental Health Officer

Agreed amendment between the applicant and the Environmental Health Officer, regarding the removal of live music and the showing of films outdoors at the premises.

Location of premises

Plan of premises

Impact

- 4.

Communication/ Consultation	Details of the application was 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. 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> <p>Conditions relating to the playing of live music which is unamplified or for an audience of not more than 200 people are only applicable between the hours of 2300 and 0800 unless applied to those hours on an application to review the licence.</p>
Sustainability	None
Ward-specific impacts	Ashdon being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. The Plough Inn is situated on Sampford Road, Radwinter which is on the edge of the village. The premises closed on 9th September 2009 when the previous premises licence was surrendered. It has remained closed since that date but the new occupiers are David and Pamela Miles who are seeking to re open the premises. They are currently the Premises Licence Holders for The Rose and Crown Public House in Ashdon.
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 1st August 2005.
7. The previous premises licence permitted the following licensable activities
 - (a) Indoor sporting events

Monday to Wednesday	11am to 11.30pm
Thursday to Saturday	11am to 12.30am
Sunday	11am to 11.30pm
 - (b) Recorded Music (Indoors Only)

Monday to Wednesday	11am to 11.30pm
Thursday to Saturday	11am to 12.30am
Sunday	11am to 11.30pm

- (c) Anything similar to Live Music, Recorded Music, and Performance of Dance (Indoors Only)

Monday to Wednesday	11am to 11.30pm
Thursday to Saturday	11am to 12.30am
Sunday	11am to 11.30pm

- (d) Making Music (Indoors Only)

Monday to Wednesday	11am to 11.30pm
Thursday to Saturday	11am to 12.30am
Sunday	11am to 11.30pm

- (e) Facilities for dancing (Indoors Only)

Monday to Wednesday	11am to 11.30pm
Thursday to Saturday	11am to 12.30am
Sunday	11am to 11.30pm

- (f) Anything similar for making music or facilities for dancing (Indoors Only)

Monday to Wednesday	11am to 11.30pm
Thursday to Saturday	11am to 12.30am
Sunday	11am to 11.30pm

- (g) Late Night Refreshment

Monday to Wednesday	11pm to 11.30pm
Thursday to Saturday	11pm to 12.30am
Sunday	11pm to 11.30pm

- (h) The sale of alcohol by retail for consumption on the premises only

Monday to Wednesday	11am to 11.30pm
Thursday to Saturday	11am to 12.30am
Sunday	11am to 11.30pm

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

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

8. In accordance with the Licensing Act 2003 where an applicant applies for the grant of a Premises Licence then included in the documentation 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 now being sought are listed below

(a) Films (Indoors and Outdoors)

Monday to Wednesday	9am to 11.30pm
Thursday	9am to 12 midnight
Friday and Saturday	9am to 1am
Sunday	10am to 10.30pm

(b) Live Music (Indoors and Outdoors)

Monday to Wednesday	10am to 11.30pm
Thursday	10am to 12 midnight
Friday and Saturday	10am to 1am
Sunday	10am to 10.30pm

(c) Recorded Music (Indoors and Outdoors)

Monday to Wednesday	9am to 11.30pm
Thursday	9am to 12 midnight
Friday and Saturday	9am to 1am
Sunday	10am to 10.30pm

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

Monday to Wednesday	9am to 11.30pm
Thursday	9am to 12 midnight
Friday and Saturday	9am to 1am
Sunday	10am to 10.30pm

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

Monday to Wednesday	9am to 12 midnight
Thursday	9am to 12.30am
Friday and Saturday	9am to 1.30am
Sunday	10am to 11.00pm

10. The operating schedule indicates that the following measures will be adopted in order to promote the licensing objective regarding the prevention of crime and disorder:-

Ensure the Car Park and external areas are lit at night .Discourage abusive language and aggressive behaviour.

11. The operating schedule indicates that the following measures will be adopted in order to promote the licensing objective regarding public safety:-

Comply with relevant legislation for Health and Safety and provide adequate lighting
12. The operating schedule indicates the following measures will be adopted in order to promote the licensing objective regarding the prevention of public nuisance.

Display prominent signage for patrons to leave the premises quietly.
Discourage abusive language and aggressive behaviour on the premises
13. The operating schedule indicates that the following measures will be taken in order to promote the licensing objective regarding the protection of children from harm.

To oblige parents and guardians to keep their children under supervision whilst on the premises. Discourage abusive language and aggressive behaviour by adults.
14. Copies of this application have been served on all of the statutory bodies which have attracted representations from the Environmental Health Officer. The representations are based on the licensing objective that relates to the prevention of public nuisance. It should be noted that the applicants have agreed to amend their application by removing the licensable activities of live music and films outdoors at the premises. There are no other amendments to the original application.
15. Representations have been received from interested parties based on the licensing objectives that relates to the prevention of crime and disorder and the prevention of public nuisance.
16. 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
17. 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
Refuse to specify a person in the licence as the designated premises supervisor
Reject the application

18. 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.
19. The relevant sections of the Council's licensing policy are:-
 - 3.1 The Licensing Authority is committed to further improving 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.
 - 3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:
 - Under age drinking
 - Drunkenness on premises
 - Public drunkenness
 - Drugs
 - Violent behaviour
 - Anti-social behaviour
 - 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
 - 5.5 The Licensing Authority does recognise that in some circumstances flexible licensing hours may help to avoid concentrations of customers leaving premises simultaneously and could reduce the potential for disorder. It also

recognises that licensing hours should not inhibit the development of safe evening and night time local economies. However, the Authority will always seek to balance their decisions with the duty to promote the four licensing objectives and the rights of residents to peace and quiet.

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

5.7 When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals hospices and places of worship
- the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00 hours
- the closing time of the premises
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport

Applicants for licences which include regulated entertainment will be aware of the potential of such entertainment to cause a public nuisance by reason of noise from the premises. If representations are made or a review is called for the Authority may consider imposing a condition to the effect that the licence shall take measures to ensure that music will not exceed a prescribed decibel limit at the boundaries of certain properties or within a location described in the condition. What may be an acceptable level of noise may vary from location to location or depending on that time of day as perception of noise from a particular source is affected by background noise levels. Directions given under the Noise Act 1996 provide that the permitted level for the purpose of that Act is 34 decibels where the underlying noise level does not exceed 24 decibels or 10 decibels above underlying noise levels in any other case. In the event that representations are received and the Authority concludes that a noise limiting condition is required the starting point for such a condition would be 34 decibels. If an applicant wishes to contend that a higher limit is appropriate then the Authority would expect the applicant to provide a noise survey to support such a contention.

20. 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 authorities 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.
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
Conditions do not satisfactorily achieve the licensing objectives the prevention of crime and disorder 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.