

26 November 2013

Dear Councillor

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE

An extraordinary meeting of the Licensing and Environmental Health Committee will be held in the Council Chamber, Council Offices, London Road, Saffron Walden on Wednesday 4 December 2013 at 10am.

Yours faithfully

JOHN MITCHELL

Chief Executive

AGENDA PART I

1	Apologies for absence and declarations of interest.	
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PART 2

(Consideration of items containing exempt information within the meaning of s.100I and paragraphs 1 and 2 of schedule 12A of the Local Government Act 1972)

2	Determination of a private hire/hackney carriage driver's licence.	4
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PART 1

5	Determination of an application for variation of a premises licence: Saffron Walden Football Club.	13
6	Determination of an application for grant of a premises licence: The Plough Radwinter.	21

To: Councillors **D Perry** (Chairman), H Asker, J Davey, J Freeman, E Hicks, J Loughlin, M Lemon, D Morson, **V Ranger**, **J Salmon** and **A Walters**.

Only those councillors whose names are shown in bold are required to attend.

Lead Officer: Michael Perry (01799) 510416

Democratic Services Officer: Rebecca Dobson (01799) 510433

MEETINGS AND THE PUBLIC

Members of the public are welcome to attend any of the Council's Cabinet or Committee meetings and listen to the debate. All agendas, reports and minutes can be viewed on the Council's website www.uttlesford.gov.uk.

Members of the public and representatives of parish and town councils are now permitted to speak or ask questions at any of these meetings. You will need to register with the Democratic Services Officer by midday two working days before the meeting. An explanatory leaflet has been prepared which details the procedure and is available from the Council offices at Saffron Walden.

A different scheme is applicable to meetings of the Planning Committee and you should refer to the relevant information for further details.

Please note that meetings of working groups and task groups are not held in public and the access to information rules do not apply to these meetings.

The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

You are entitled to see any of the background papers that are listed at the end of each report.

If you want to inspect background papers or speak before a meeting please contact either Peter Snow on 01799 510430, Maggie Cox on 01799 510433 or Rebecca Dobson on 01799 510433, or by fax on 01799 510550.

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

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The Council Offices has facilities for wheelchair users, including lifts and toilets. The Council Chamber has an induction loop so that those who have hearing difficulties can hear the debate. If you are deaf or have impaired hearing and would like a signer available at a meeting, please contact Peter Snow on 01799 510430 or email psnow@uttlesford.gov.uk as soon as possible prior to the meeting.

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- You should proceed calmly, do not run and do not use the lifts.

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- Once you are outside, please make your way to the flagpole near the visitor car park.
Do not wait immediately next to the building.
- Do not re-enter the building until told to do so.

Determination of a private hire/hackney carriage driver's licence

Licensing and Environmental Health Committee, 4 December 2013, item 2

NOT FOR PUBLICATION (paragraph 1 and 2 schedule 12A Local Government Act 1972)

Committee: Licensing and Environmental Health

Agenda Item

Date: 4 December 2013

2

Title: **Determination of a Private Hire/Hackney Carriage Drivers Licence**

Author: Matthew Chamberlain, Enforcement Officer,
(01799 510326)

Item for decision:

Summary

This report has been submitted for members to consider suspension or revocation of a Private Hire/Hackney Carriage Drivers Licence in accordance with section 61(1)(a)(ii) Local Government (Miscellaneous Provisions) Act 1976 under the heading that since the grant of the licence they have failed to comply with part of this Act.

Recommendations

The committee determine whether Ms Mires should have her private hire/hackney carriage driver's licence suspended or revoked.

Financial Implications

None arising from this report

Background Papers

1. 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.
 - a. Uttlesford District Council licensing standards for drivers.
 - b. Essex County Council Contract Management Team Inspection Report Form dated 4 October 2013.
 - c. Transcript of Interview Under Caution on 5 November 2013.
 - d. Certificate of caution for Ms Mires dated 4 December 2013.

Impact

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper.
Equalities	None.
Health and Safety	None.

Human Rights/Legal Implications	Under section 61 of the LG(MP)A district councils may suspend or revoke a driver's licence for: (a) Having been convicted of one of a range of specified offences since the grant of the licence or (b) Any other reasonable cause In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

1. Ms Gillian Mires of 45 Browning Road, Braintree, Essex, CM7 1AH is currently a licensed private hire/hackney carriage driver and her badge number is 415. She first became a licensed driver with this Authority on 29 June 2011 and her current licence is due to expire on 31 May 2014. Ms Mires is currently employed by Excellent Connections Limited T/A Fargolink to primarily carry out school contract work.
2. On 4 October 2013 Ms Mires was carrying out Essex County Council school contract OS0029 at Mildmay Infants/Juniors School in Essex. Mrs Mires was driving private hire vehicle 424 when she was stopped by an Essex County Council Officer for a routine inspection. During the inspection, private hire vehicle 424 was found to be displaying a private hire vehicle plate which expired on 30 September 2013.
3. Using a private hire vehicle whilst failing to display a valid private hire vehicle plate is an offence under section 48(6) Local Government (Miscellaneous Provisions) Act 1976 which carries a maximum fine of £1000 upon conviction.
4. On 5 November 2013, Ms Mires attended the Council Offices in Saffron Walden for an Interview Under Caution (IUC) into the offence of using a private hire vehicle whilst failing to display a valid private hire vehicle plate and this was conducted by two Enforcement Officers. Ms Mires admitted that she was driving the vehicle in question on the day that it was stopped but did not know that the vehicle licence plate had expired. Ms Mires told the officers she does a general inspection of the vehicle before using it checking general things such as the washers. Ms Mires said that she never checked the plate and used to rely on a system of receiving a text from her manager to instruct her to bring the vehicle to the yard when a new plate would be ready. Ms

NOT FOR PUBLICATION (paragraph 1 and 2 schedule 12A Local Government Act 1972)

Mires explained that after she was stopped she dropped her passengers off and went to the offices of Fargolink where the vehicle plate was waiting and they changed it there and then.

5. In accordance with the Council's new licensing policy when an offence is committed under the legislation then the Council should impose a sanction. In this case Ms Mires chose to accept a Council Caution for the offence of using a private hire vehicle whilst failing to display a valid private hire vehicle plate which was administered by one of the Council's solicitors on 5 November 2013.
6. As Ms Mires has received a Council caution she now falls below the Council's licensing standards as she has received an official Caution within the last 12 months and as a result appears before Members to decide if she remains a fit and proper person to retain her private hire/hackney carriage driver's licence.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unsuitable person may be licensed to drive licensed vehicles.	1- Members have an awareness of what constitutes a fit and proper person.	2- Permitting unfit persons to drive a private hire/hackney carriage vehicle may put the public at risk.	Members consider whether the driver is a fit and proper person as she failed to adhere to the conditions of her licence and now received an official Caution.

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.

Committee: Licensing and Environmental Health

Agenda Item

Date: 4 December 2013

3

Title: **Determination of a Private Hire/Hackney Carriage Drivers Licence**

Author: Matthew Chamberlain, Enforcement Officer,
(01799 510326)

Item for decision:

Summary

This report has been submitted for members to consider suspension or revocation of a Private Hire/Hackney Carriage Drivers Licence in accordance with section 61(1)(a)(ii) Local Government (Miscellaneous Provisions) Act 1976 under the heading that since the grant of the licence they have failed to comply with part of this Act.

Recommendations

The committee determine this whether Mr Meadows should have his private hire/hackney carriage driver's licence suspended or revoked.

Financial Implications

None arising from this report

Background Papers

1. 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.
 - a. Uttlesford District Council licensing standards for drivers.
 - b. Witness statement from Leslie Smith
 - c. Email from Leslie Smith
 - d. Transcript of Interview Under Caution dated 18 November 2013
 - e. Certificate of caution for Mr Meadows

Impact

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper.
Equalities	None.

Health and Safety	None.
Human Rights/Legal Implications	<p>Under section 61 of the LG(MP)A district councils may suspend or revoke a drivers licence for:</p> <p>(a) Having been convicted of one of a range of specified offences since the grant of the licence or</p> <p>(b) Any other reasonable cause</p> <p>In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

1. Edward Meadows of 13 Park Avenue, Eastwood, Leigh On Sea, Essex, SS9 5XB is currently a licensed private hire/hackney carriage driver and his badge number is 109. He first became a licensed driver with this Authority on 16 April 2010 and his current licence is due to expire on 31 March 2011. Mr Meadows is currently employed by 24x7 Limited to primarily carry out school contract work.
2. At 15.25 hours on 30 October 2013 Mr Meadows was carrying out Essex County Council school contract SS0159 at Viking House Day Centre, Southend-on-Sea in private hire vehicle 509. Mr Meadows was stopped by Leslie Smith a Passenger Transport and Contract Monitoring Inspector for Essex County Council for a routine inspection. During the inspection Mr Meadows was found to not have his drivers identity badge with him.
3. Failing to wear a valid and current private hire drivers badge when driving a private hire vehicle is an offence under section 54(2) Local Government (Miscellaneous Provisions) Act 1976 which carries a maximum fine of £1000 upon conviction.
4. On 18 November 2013 Mr Meadows attended the Council Offices in Saffron Walden for an Interview Under Caution (IUC) into the offence of failing to wear a private hire driver's badge when driving a private hire vehicle and this was conducted by two Enforcement Officers. Mr Meadows admitted that he was

driving the vehicle in question on the day he was stopped and that he did not have his badge. He explained that he had returned from holiday on 28 October 2013 and collected the vehicle on 29 October 2013 and he had driven it on this day and 30 October 2013 without the badge as he forgot to take it. Mr Meadows was asked does he receive training when he started his job and he confirmed he did and was aware that he was meant to wear the badge when driving the vehicle. Mr Meadows accepted the offence and apologised for it.

5. In accordance with the Council's new licensing policy when an offence is committed under the legislation then the Council should impose a sanction. In this case Mr Meadows chose to accept a Council caution for the offence of failing to wear a valid private hire driver's badge which was administered by the Assistant Chief Executive Legal on 18 November 2013.
6. As Mr Meadows has received a Council caution he now falls below the Council's licensing standards as he has received an official Caution within the last 12 months and as a result appears before Members to decide if he remains a fit and proper person to retain his private hire/hackney carriage driver's licence.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unsuitable person may be licensed to drive licensed vehicles.	1- Members have an awareness of what constitutes a fit and proper person.	2- Permitting unfit persons to drive a private hire/hackney carriage vehicle may put the public at risk.	Members consider whether the driver is a fit and proper person as he failed to adhere to the conditions of his licence.

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.

Consideration of a private hire driver's licence

Licensing and Environmental Health Committee, 4 December 2013, item 4

NOT FOR PUBLICATION (paragraph 1 and 2 schedule 12A Local Government Act 1972)

Committee: LICENSING & ENVIRONMENTAL HEALTH **Agenda Item**
Date: 4 December 2013 **4**
Title: PART 2 REPORT: CONSIDERATION OF A PRIVATE HIRE DRIVER'S LICENCE
Author: Michael Perry, Assistant Chief Executive – Legal, 01799 510416 **Item for decision**

Summary

1. This report has been prepared for members to consider the suspension or revocation of a private hire driver's licence under s.61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 for any other reasonable cause.

Recommendations

2. That the committee determine whether Mr Ratcliffe's private hire driving licence should be suspended or revoked.

Financial Implications

3. None.

Background Papers

4. 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.
 - The driver's licensing file
 - Emails from Aviation Medica

Impact

- 5.

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper persons.
Equalities	None
Health and Safety	None.
Human Rights/Legal	In the event of the licence being suspended

Implications	or revoked the driver has a right of appeal to a Magistrates Court. If the committee decide that it is required in the interest of public safety that a suspension or revocation should have immediate effect the driver is not permitted to drive during the period allowed for lodging an appeal nor (if an appeal is lodged) before the appeal has been determined.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. Mr Anthony Ratcliffe is licensed by the council as a private hire vehicle driver. His first licence was granted on 25 September 2008. At that time Mr Ratcliffe produced a driving licence showing one lapsed fixed penalty notice for excess speed, a clear CRB check and a medical certificate showing that he was considered fit to drive by Group 2 standards.
7. Since that time Mr Ratcliffe's licence had been renewed annually. His last medical examination for the purpose of licence renewal was in September 2011. At that time he was again certified fit to drive.
8. Mr Ratcliffe's driver's licence does not reveal any current endorsements.
9. Mr Ratcliffe's driver's licence was last renewed with effect from 1 September 2013.
10. On 14 November information was received by the council that Mr Ratcliffe had been referred to Aviation Medica by his employer. Pending an examination and report Mr Ratcliffe's employer had suspended him from driving.
11. Although Mr Ratcliffe has been suspended by his employer, his licence from this authority remains in force which will permit him to drive for any other operator licensed within the district. In view of doubts concerning Mr Ratcliffe's medical condition I therefore suspended his licence with immediate effect pending medical clearance.
12. There is authority to the effect that a licence may not be suspended indefinitely. If members are not satisfied that Mr Ratcliffe is fit to drive there are therefore effectively only two options open to the committee. The first will be to revoke Mr Ratcliffe's licence. The alternative would be to suspend the licence until 31 August 2014 (the expiry date of the licence) with delegated authority being given to me in consultation with the chairman of the committee

Consideration of a private hire driver's licence

Licensing and Environmental Health Committee, 4 December 2013, item 4

NOT FOR PUBLICATION (paragraph 1 and 2 schedule 12A Local Government Act 1972)

to remove the suspension in the event that Mr Ratcliffe produces a medical certificate confirming that he meets Group 2 standards and is therefore fit to drive.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
An unfit driver is licensed to drive within the district.	1, members are unlikely to permit an unfit person to drive.	4, permitting an unfit person to drive could lead to damage to property, personal injury or even death of a third party.	That members only take no action with regard to Mr Ratcliffe's licence if they are satisfied that he is fit to drive.

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.

Committee:	Licensing Committee	Agenda Item 5
Date:	4th December 2013	
Title:	Application to vary a Premises Licence – Saffron Walden Town Football Club	
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 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.
 - a. Operating schedule
 - b. Representations from interested parties
 - c. Representations from Principle Environmental Health Officer
 - d. Agreed conditions between applicant and the Principal Environmental Health Officer
 - e. Location of premises
 - f. Plan of premises
 - g. Current premises licence

Impact

- 4.

Communication/Consultation	Details of the application were 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	<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	Saffron Walden Castle being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. Saffron Walden Town Football Club is situated in Catons Lane, Saffron Walden and is the main stadium in the town where football is played.
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 1 August 2005.
7. The current premises licence permits the following licensable activities
 - (a) Playing of recorded music (indoors only)

Monday to Saturday	10am to 11.20pm
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 - (b) The sale by retail of alcohol for consumption only on the premises

Monday to Saturday	10.00am to 11.00pm
Sunday	12 noon to 10 30pm

(c) The opening hours of the premises

Monday to Saturday	10.00am to 11.20pm
Sunday	12 noon to 10.50pm

8. Listed at Annexe 1 of the premises licence are the mandatory conditions attached to this licence and the embedded conditions which were contained in the Licensing Act 1964.
9. The holder of the premises licence is seeking a variation to the current licence by increasing the licensable activities in respect of regulated entertainment, and extending the times permitted involving the sale of alcohol by retail. In addition they are seeking the removal of the embedded conditions.
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 Only)

Monday to Friday	7pm to 12 midnight
Saturday	11am to 12 midnight
Sunday	12noon to 12 midnight

(b) Recorded Music (Indoors Only)

Monday to Friday	7pm to 12midnight
Saturday	11am to 12 midnight
Sunday	12 noon to 12 midnight

(c) Performance of dance (Indoors Only)

Monday to Friday	7pm to 12 midnight
Saturday	11 am to 12 midnight
Sunday	12 noon to 12 midnight

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

Monday to Sunday inclusive	10 am to 12.midnight
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(e) The hours the premises are open to the public

Monday to Sunday inclusive

10am to 12.30am

12. 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

A Challenge 25 scheme will operate at the premises

Any person suspected of being in unlawful possession of a controlled drug will be escorted off the premises.

A full colour CCTV system operates at the premises

A behave or be banned scheme also operates at the premises.

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

A full health and safety policy is in force for these premises

A Fire Safety policy is in force for these premises

A qualified fire marshall will be on site at the premises

Plastic glasswear will be used for external purposes

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

At the end of every function customers will be asked to consider neighbours and leave the premises quietly

Any complaint of noise nuisance will be immediately investigated and if proven remedial action will be taken to secure noise levels

15. 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.

Children must always be accompanied by an adult

A refusal book will be maintained giving details where alcohol was refused to a person under the age of 18 years

16. Copies of this application have been served on all of the statutory bodies which have attracted representations from the Principle 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 representations will be withdrawn at this hearing as an agreement has been

reached between both parties regarding the conditions that are being sought which are designed to promote the licensing objective relating the prevention of public nuisance.

17. 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 which have not been withdrawn.
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 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 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 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.

- 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

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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 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.

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.