

Committee: Licensing and Environmental Health

Agenda Item

Date: 06 May 2014

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Title: **Application for the grant of a Premises Licence – Walden Ladies Football Club, Crabtrees, Saffron Walden**

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 party
Location of premises
Plan of premises

Impact

- 4.

Communication/ Consultation	Details of this application were conveyed to Members of Uttlesford District Council, The Town Council, Local Residents adjoining the premises and the application was published on the Uttlesford District Council Website.
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

	<p>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 Shire being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. The Pavilion is situated on the playing field at Crabtrees, Saffron Walden with private dwellings adjacent to one side of the playing field. Access to the location is via Hoptrees and Crabtrees.
6. In accordance with the Licensing Act 2003 where an applicant applies for the grant of a Premises Licence then included in the accompanying documents must be an operating schedule. This demonstrates how the licensing objectives will be met and also seeks to outline what licensable activities are being sought.
7. The licensable activities being sought are listed below:-
 - (a) Recorded Music (Indoors Only)

Monday to Friday	6pm to 10.00pm
Saturday	12 noon to 10pm
Sunday	12 noon to 8pm
 - (b) The sale of alcohol by retail for consumption both on and off the premises

Monday to Friday	6pm to 10pm
Saturday	12 noon to 10pm
Sunday	12 noon to 8pm

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

Monday to Friday	6pm to 10pm
Saturday	12 noon to 10pm
Sunday	12 noon to 8pm

8. 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:-

Persons apparently whose conduct becomes offensive or abusive will be required to leave the premises. No sales will be made to anyone who appears to be drunk or on their way.

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

No more than 80 persons to be permitted on the premises. First Aid facilities will be provided along with a qualified first aider.

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

If recorded music is loudly played arrangements will be in place to prevent the music becoming too loud. If noise complaints are received measures will be taken immediately to restore the noise levels.

11. 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.

A Challenge 25 Scheme to be in operation at the premises. Where a sale of alcohol is refused then details will be recorded in an appropriate register.

12. Copies of this application have been served on all of the statutory bodies which have attracted no representations.

13. Representations have been received from an interested party based on the licensing objectives that relates to the prevention of crime and disorder and, the prevention of public nuisance.

14. 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

15. 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
16. 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.
17. 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:
 - Underage 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.

5.8 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
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, eg to ensure customers leave quietly
- Control of operating hours for all or parts (eg garden areas) of premises including such matters as deliveries
- Adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting Queues) arriving and leaving the premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

18. 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.
19. If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate 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

20.

Risk	Likelihood	Impact	Mitigating actions
1 Either no conditions are attached to the licence or the conditions do not satisfactorily achieve the licensing objectives for prevention of crime	2 There is a possibility that local residents will suffer from crime and disorder and public nuisance even if what appears to be	2 Due to the availability of the review procedure any inconvenience which may be suffered by local residents would be relatively short	In the event of complaints of crime and disorder or noise nuisance being received then Essex Police and/or Environmental Health Officers monitor the situation and apply for a review of the licence

and disorder and, the prevention of public nuisance	appropriate conditions are imposed.	lived.	if it is considered necessary.
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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.