

Committee: Licensing Committee

Agenda Item

Date: 20 May 2014

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Title: Application to vary a Premises Licence –
Stansted Service Station, 1 Cambridge
Road, Stansted Mountfitchet

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
Current Premises Licence
Plan of premises
Location of premises
Representations from interested party
Agreed condition between the applicant and Essex Police

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	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.
Sustainability	None
Ward-specific impacts	Stansted North being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. Stansted Service Station is situated in the centre of the village on Cambridge Road close to the junctions of Chapel Hill and Bentfield Road.
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 activity
 - (a) Late Night Refreshment (Indoors and Outdoors)
Monday to Sunday 11pm to 12 midnight
 - (b) The sale of alcohol by retail for consumption off the premises only
Monday to Sunday 6.00am to 12 midnight
 - (b) The opening hours of the premises
Monday to Sunday 6am to 12 midnight
8. Listed at Annexe 1 are the current mandatory conditions attached to this licence.
9. The holder of the premises licence are Rontec Watford Ltd who are seeking a variation to the current licence by increasing the licensable activities in respect of late night refreshment and 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) Late Night Refreshment (Indoors and Outdoors)
Monday to Sunday 11pm to 5am
 - (b) The sale of alcohol by retail for consumption off the premises only
Monday to Sunday 12 midnight to 12 midnight
 - (c) The opening hours of the premises
Monday to Sunday 12 midnight to 12 midnight
12. The operating schedule indicates no further risks have been identified which need to be addressed however the following condition has been agreed with Essex Police in order to promote the licensing objective regarding the prevention of crime and disorder:-

The entrance door to the shop will be closed to customers between the hours of 2400 and 0500. Any sales between these hours will be made through the night pay window.
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 no further risks have been identified which need to be addressed in order to promote the licensing objective regarding the protection of children from harm.
16. Copies of this application have been served on all of the statutory bodies which have attracted no representations other than the additional condition agreed by the applicant and Essex Police.
17. Representations have been received from interested party based on the licensing objectives that relates to the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. It is feared that with the proposed increase in licensable activities then this could lead to public disorder situations developing at night and the sale of alcohol being made to persons under the age of 18 years. Furthermore it is believed that there would be a significant increase in anti- social behaviour in neighbourhood resulting in an increase of noise and nuisance to residents.
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, the 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 measurers, such as lighting outside the premises
- Membership of local "Pubwatch" schemes or similar organisations

3.7 Whilst the Licensing Act 2003 requires each sale of alcohol (other than in certain community premises) to be made or authorised by a personal licence holder there is no requirement for every sale to be made by a personal licence holder or for them to be personally present at every transaction. In determining whether the real authorisation was given, the Guidance issued by the Secretary of State encourages the practice of a written authorisation to make supplies of alcohol being given by personal licence holders to persons not holding a personal licence.

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.

5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless representations are made and there are exceptional reasons relating to disturbance or disorder.

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.

6.1 The protection of children from harm is a most important issue. While it is hoped that family friendly premises will thrive, the risk of harm to children remains a paramount consideration when determining applications.

6.5 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 protect children from harm, relevant to the individual style and characteristics of their premises and events.

6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, in the event that representations are received, having regard to their particular type of premises and/or activities. These examples can be adopted in any combination:-

- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks)
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Measures to ensure children do not purchase, acquire or consume alcohol
- Measures to ensure children are not exposed to incidences of violence or disorder on the hours

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, 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.

2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.:

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, any 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 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

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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, the	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	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

prevention of public nuisance, and the protection of children from harm.	imposed.		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.