

Committee: Licensing Committee

Agenda Item

Date: 2 December 2015

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Title: Application for a new Premises Licence –
Colville Hall, Chelmsford Road, White
Roding, Essex. CM6 1RQ

Author: Amanda Turner, Licensing Team Leader. Item for decision

Summary

1. This report sets out an application for a new 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 determination.

Recommendations

2. The application is determined

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.

Premises licence application (appendix A)
Representation from Statutory consultee (appendix B)
Representations from interested parties (appendix C)
Letter of support from interested party (appendix D)
Location of premises (appendix E)
Plan of premises (appendix F)

Impact

4.

Communication/Consultation	Details of the application were sent 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	High Easter & The Rodings being the ward within which the premises are situated
Workforce/Workplace	None

Situation

5. Colville Hall lies within the remains of an ancient moated site and consists of several grade 1 and 2 listed medieval buildings and is situated on the outskirts of the village of White Roding. Mill Pond Barn will be the main licensed building used for wedding receptions, Colville Hall itself is a private residence and will not form part of the licensed area, Orchard Barn is currently empty and will be used for wedding ceremonies, and The Old Dairy will be used for accommodation. A premises licence is being applied to licence the whole site and a new road has been constructed for access.
6. In accordance with the Licensing Act 2003 where an applicant submits documentation for a premises licence then an operating schedule must accompany the application. This demonstrates how the licensing objectives will be met and also outlines what licensable activities are sought.
7. The licensable activities now being sought are listed below
 - (a) Plays (Indoors & outdoors)
Monday to Sunday 10:00 to 00:30
 - (b) Live Music (Indoors and outdoors)
Monday to Sunday 23:00 to 00:30
 - (c) Recorded Music (Indoors and outdoors)
Monday to Sunday 23:00 to 00:30
 - (d) Performance of Dance (Indoors and outdoors)
Monday to Sunday 10:00 to 00:30
 - (e) The sale of alcohol by retail for consumption (on and off the premises)
Monday to Sunday 10:00 to 00:30
 - (g) The opening hours of the premises
Monday to Sunday 10:00 to 00:30

8. The operating schedule indicates that measures will be adopted in order to promote the four licensing objectives. These can be read on part M of the application form (appendix A).
9. Copies of this application have been served on all of the statutory bodies which have attracted a representation from Environmental Health (noise/nuisance) (appendix B).
10. Planning (one of the statutory bodies consulted) have not made a formal representation but have requested the Committees attention be drawn to the following condition on the planning permission::-

“Events/Function shall take place at the site no more than 180 days per year, of which no more than 140 will involve the use of amplified music. Except from overnight residents, persons attending events/functions as a visitor or guest shall only be on the site between 7.30 hours and 00.30 hours the following morning.

REASON: In the interests of the amenity of the area in accordance with Policies GEN2 and GEN4 of the Uttlesford Local plan (adopted 2005)”

11. 17 representations have been received from interested parties and White Roding Parish Council raising concerns based on the licensing objectives that relates to the prevention of public nuisance. It is feared that disturbance to neighbours would be caused by:
 - (a) Live and recorded music playing until 12.30am, especially outdoors
 - (b) more traffic on roads with potential to speed late at night
 - (c) quality of sleep disturbed with guests leaving the site after 12.30am
 - (d) wind generally blows in the westerly direction which will affect a majority of village properties
12. A letter has been received from an interested party living in the village in support of the application
13. In carrying out the statutory function, the Licensing Authority must promote the four 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
14. 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
15. 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.

16. The relevant sections of the Council's licensing policy are;-
- 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.

17. The relevant sections of the guidance issued by the Secretary of State are:-
 - 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
 - 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
 - 2.20 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, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.
- 9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations

should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

- 9.42 The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
18. 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 or the conditions do not satisfactorily achieve the licensing objectives the prevention of crime and disorder, the prevention of public nuisance, and the protection of children from harm.	2 There is a possibility that local residents will suffer from 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 noise nuisance being received after the licence takes effect then 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.