

Report of	Meeting	Date
Director of Legal Services	Statutory Licensing Sub-Committee	16 September 2005

APPLICATION TO VARY PREMISES LICENCE IN RESPECT OF CONSERVATIVE CLUB 216 SPENDMORE LANE COPPULL

PURPOSE OF REPORT

1. For members to determine an application for the vary a premises licence.

CORPORATE PRIORITIES

2. There are no specific implications for corporate policies arising from this report.

RISK ISSUES

3. The issue raised and recommendations made in this report involve risk considerations in the following categories:

Strategy		Information	
Reputation		Regulatory/Legal	✓
Financial		Operational	
People		Other	

4. There is a right of appeal to the Magistrates Court by the applicant in respect of a decision to refuse to vary the premises licence or where the conditions of licence are modified. There is also the right of appeal to the Magistrates Court by a person who has made relevant representations against a decision to grant the variation or to modify the conditions of licence.

CURRENT PREMISES LICENCE

5. The club premises certificate was converted under the grandfather provisions. The current licensable activities are as follows:

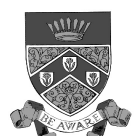
supply of alcohol by retail on and off the premises

Monday – Saturday	11.00 – 23.00
Sunday and Good Friday	12.00 – 22.30
Christmas Day	12.00 – 15.00 and 19.00 to 22.30

Provision of entertainment

Recorded music

Continued....



Current conditions are those embedded conditions under the Licensing Act 1964

THE APPLICATION

6. A copy of the application to variation is attached to this report in full in Appendix 1. In summary the application is to conduct the following licensable activities and at the times set out below.

*** Please note following discussions with the police the applicant amended the application. The agreed changes are listed below, the letters agreeing these changes are included with the application.

7. Provision of regulated entertainment

- i) Indoor Sporting events - Indoors

11.00 – 01.00 Monday - Sunday

Occasional Snooker tournaments

- ii) Live music - indoors

11.00 – 01.00 Monday - Sunday

Concert night consisting of live band and singer mainly on Saturday nights but also on occasional other nights.

Amplified music

- iii) Recorded Music - Indoors

11.00 – 01.00 Monday – Sunday

Playing recorded music through public address system

Amplified Music

- iv) Provision of facilities for making music - Indoors

11.00 – 01.00 Monday - Sunday

PA System, CD, and Tape Deck, Amplified

Club as it's own PA system, augmented by artists own equipment as required

8. Supply of Alcohol – On or Off

11.00 - 01.00 Monday – Sunday

9. ADDITIONAL STEPS TO BE TAKEN TO PROMOTE LICENSING OBJECTIVES

The applicant has indicated that following additional steps will be taken to promote the licensing objectives:

- i) General

The club will be run in a responsible manner with regard to the community which it serves and with respect for it's neighbours in accordance with it's rules

All amplified music to cease at 00.30

No member or guest to be admitted after 23.30

A closing time of a maximum of 45 minutes following the last supply of alcohol

Recorded music to be at background level from 00.30

ii) Prevention of crime and disorder

Any advice of the crime prevention police officer will be complied with.

A maximum capacity of 75 will be applicable to the premises.

Not staging irresponsible drinks promotions which may encourage binge drinking

All members of the management will be trained in all relation to all of the licensing objectives.

All members of staff concerned with sales of alcohol will be trained in relation to sales of alcohol to persons under the age of 18 years.

iii) Public Safety

Maintaining emergency exits and escape routes, ensuring they can be used at all times.

Annual testing and inspection of gas installations, emergency lighting, fire alarm and electrical installations at the premises by qualified engineers.

iv) The Prevention of public nuisance

Doors and windows to be kept closed when entertainment is in progress.

Windows to be kept locked with keys for opening to be in the possession the management only.

Signs posted at the exits reminding customers to leave quietly and with respect for local residents.

DJ public announcement to be made at the end of the evening asking customers to leave quietly.

The beer garden/ external areas (bowling green) of the premises are closed to customers at 10.00 hours each day except Friday and Saturday when they will be closed at 11.00 hours.

v) The protection of children from harm

Children under the age of 16 years will only be allowed to remaining the family room/main lounge/dining room.

Gaming machines located in games room where no access to persons under 16 years is allowed.

All members of staff concerned with sales of alcohol will be trained in relation to sales of alcohol to persons under the age of 18 years.

Persons under 18 to be excluded from the premises on occasions which the management deem appropriate and subject to activities taking place.

Any section 34 gaming machines at the premises are positioned within sight of the bar so that full supervision can be given to those playing on such.

10. Other Activities that may give rise to concern in respect of children

None

11. Conditions/ Restrictions to be removed on variation.

12. Relevant Representations – Responsible Authorities

There are no relevant representations.

13. Relevant Representations – Interested Parties.

There is one representation received to the application to vary from interested party who reside close to the premises. The objections are relevant to the following licensing objectives - Prevention of public nuisance

Copies of the representations in full are attached to the report. Summaries of the representations are –

The area is residential.

There is currently excessive noise outside the premises including customers shouting and singing when leaving the premises.

Currently loud levels of music and singing predominately. on Friday -Sunday from the premise can be heard

Motor vehicles create noise in the evenings

14 Policy Considerations.

Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act.

As members will be aware the four licensing objectives are as follows:

- the prevention of crime and disorder
- public safety
- prevention of public nuisance
- the protection of children from harm.

The Licensing Act 2003 provides that where relevant representations are received the Licensing Authority must hold a hearing to consider them unless the parties agree that a hearing is unnecessary.

The Licensing Authority in determining the application, having have regard to the representations, may take the following steps it considers it necessary for the promotion of the licensing objectives.

- i) reject the application in whole or in part
- ii) modify the conditions.

Members must have regard to the Statement of Licensing Policy when determining this application. In particular, member's attention is drawn to the following paragraphs:

Paragraph 1.3 The policy provides guidance on the general approach the Council, as Licensing Authority, within the meaning of the Act, will take in terms of licensing, However, each application will be considered separately, on its individual merits.

Paragraph 1.4. The Statement of Licensing Policy sets out how the licensing objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to the local economy. Balancing these interests will not always be straightforward and will be guided by the four licensing objectives.

Paragraph 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, the Council in adopting this policy is indicating that a wide range of considerations will be taken into account.

Paragraph 2.2 Each of the licensing objectives are of equal importance with these objectives.

Paragraph 2.3 Each of the licensing objectives is of equal importance for the purposes of this policy.

Paragraph 2.4 This policy statement is designed to deal with matters within the control of the licensee. It focuses on the premises in which each business is carried on and the effect that has on members of the public living, working or engaged in normal activity in the vicinity.

Paragraph 2.5 Licensing law is not envisaged by the Licensing Authority as a mechanism to control anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions. These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.

Paragraph 2.6 The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact of their activities and anti-social behaviour by their customers within the vicinity of their premises.

Paragraph 5.3 The policy will not fix the hours during which alcohol can be sold. The Licensing Authority considers that stricter controls regarding noise nuisance may be necessary in more densely populated areas . The grant of a licence will be dependent on the impact of an activity on the licensing objectives.

PREVENTION OF PUBLIC NUISANCE

Paragraph 13.1 Licensed Premises have significant potential to adversely impact on communities through public nuisances arising from their operation.

Paragraph 13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. 'Vicinity' is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded, as 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.

Paragraph 13.3 The Licensing Authority will interpret 'public nuisance' in its widest sense and include such matters as noise emanating from the premises, light, litter, odour and anti social behaviour where these matters impact on those living or working in an area.

Paragraph 13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter, and odours. There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.

Paragraph 13.5 The policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.

Paragraph 13.6 On receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following factors where relevant:

- the location of the premises (in particular proximity to residential and other noise sensitive premises, e.g. hospitals, nursing homes, hospices and places of worship)
- the type of activities, the number and nature of clientele likely to attend at the time of the application
- the proposed hours of operation
- levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire)
- means of access to premises (whether on principal pedestrian routes)
- the level of car parking demand on any surrounding residential streets and its effect on local residents
- the cumulative impact on licensed premises in an area
- the scope for mitigating an impact i.e. CCTV, door supervisors
- the frequency of an activity
- the design and layout of the premises
- measures taken or proposed to be taken to prevent noise or vibration escaping from the premises e.g. sound proofing, air conditioning and sound limitation devices
- measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc
- measures taken to lessen the impact of parking in the vicinity
- control of operating hours for all or parts of the premises (e.g. gardens, last admission times and 'wind down' periods)
- measures to be taken to prevent drunkenness on the premises
- measures to ensure collection and disposal of litter and waste outside their premises

Paragraph 13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice

has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association.

Paragraph 13.8 On receipt of relevant representations, the Licensing Authority, where it considers it necessary and/or appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions - see Appendix 3. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority

Paragraph 13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.

Paragraph 13.10 The Licensing Authority would also recommend applicants highlight local public transport links and taxi and private hire services within their premises, (including agreeing arrangements with nominated taxi and private hire firms for dropping off and collecting customers).

Paragraph 13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual Licence holder. The Licensing Authority accepts that the difficulty that a licence holder has in preventing anti-social behaviour by individuals once they are behind the direct control of the Licence Holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from a premises regularly conduct themselves in an anti-social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime & Disorder Act 1998.

15. Human Rights Act Implications

The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention Rights;

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for his home and family life;
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

ASSOCIATED PAPERS

- 16 Application form and relevant representation.

ROSEMARY LYON
DIRECTOR OF LEGAL SERVICES

There are no background papers to this report.

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H.Bee	5665		

