

## APPLICATION TO VARY A CLUB PREMISES CERTIFICATE

Committee	Licensing-Committee (North)
Officer Contact	Ian Meens, Residents Services
Papers with report	Appendix 1 – Variation Club Licence application form Appendix 2 – Representations from local residents Appendix 3 – Current Premises Licence Appendix 4 – Map of the area Appendix 5 - Plans of Building
Ward(s) affected	West Ruislip

### SUMMARY

To consider representations from 9 local residents in respect of an application to vary a Club Premises Certificate for **Ickenham Cricket Club, Oak Avenue, Ickenham UB10 8LR**.

### RECOMMENDATION

**That the Licensing Sub-Committee determine the application.**

### INFORMATION

1. An application to vary the Club Premises Certificate for Ickenham Cricket Club was received on 3<sup>rd</sup> January 2014 from Mr Room, acting on behalf of the club.

The application seeks to vary the licence as follows:

- **To extend the terminal hour for alcohol, live music, performance of dance and late night refreshment and opening hours until 00.00 hours on Fridays and Saturdays.**
- **To remove a condition around the hours to be open on Christmas Day News Years Day and Good Friday and to have a single time for all licensing activities on New Year's Eve to end at 1am New Years Day.**
- **To adjust the plan of the building following an extension of the bar and other areas.**
- **That live and recorded music would be available to be undertaken both inside and outside the premises.**

A copy of the application form is attached to this report as Appendix 1.

2. The application was advertised in accordance with the standard procedures required by the Licensing Act 2003. Following the advertisement of the application a concern and comment was received from the Council's Environmental Protection Unit.

These concerns were consulted with the applicant and the following was agreed as a condition that will be added on conclusion, notwithstanding any decision by the Licensing Sub-Committee.

*For the purpose of providing live and recorded music outside the club house but within the existing cricket field. The outside area should only be used for that purpose on the second bank holiday in May between 10am and 9pm and on no more than five other occasions per year within the same time period. This with two weeks previous notice to the London Borough of Hillingdon Environmental Health Department.*

In the period for consultation the Authority received nine letters of representation, which are attached to the report at Appendix 2. These are mainly based around the licensing objective of Public Nuisance with some also taking in Prevention of Crime and Disorder.

3. The period for consultation and the making of representations in respect of this application expired on 31<sup>st</sup> January 2014.

#### 4. General Information

The premises is a detached building situated at the end of Oak Avenue, Ickenham. A map of the area is shown at Appendix 5 of this report.

The premises is an old and established club and recently the main clubhouse was extended. Plans of the new design and previous designs are shown at Appendix 4. Parts of the extension increased the facility for the undertaking of licensable activities and thus, an application was made to identify these by a proposed new plan of the building. At the same time the club has sought to extend and make alterations to its times of operation.

With an existing club premises certificate as opposed to a Premises Licence, all regulations pertain to members of the club and their guests only. For the purpose of the use of the licence in areas to be used by the general public at large, such as a summer event, this would still require to be licensed by way of a Temporary Event Notice. A copy of the current club premises certificate is attached to this report as Appendix 3.

A map of the premises and surrounding area is attached as Appendix 5.

#### List of Representations

	Prevention of Crime & Disorder	Public Safety	Prevention of Public Nuisance	Protection of Children from Harm
Maqbul Alam Saeeda Alam			X	

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#### PART1 – MEMBERS, PUBLIC AND PRESS

Thomas Brill & Radhika Howarth			X	
Mr Antonne Owen Thursfield			X	X
Mrs Christine Kelly			X	
Mr and Mrs Try	X		X	
Dr W Farhan			X	
Mr Gary Olding			X	
Mr M & Mrs J Frey	X		X	
Barbara Dupree	X		X	

## LEGAL IMPLICATIONS

### Principles for making the determination

The general principle is that applications for Club Premises Certificates applications must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.

Relevant representations are those which:-

- Are about the effect of the granting of the application on the promotion of the licensing objectives;
- Are made by a Responsible Authority or other persons;
- Have not been withdrawn;
- Are not, in the opinion of the relevant Licensing Authority, frivolous or vexatious.

The four licensing objectives are:

**Prevention of Crime and Disorder;**

**Public Safety;**

**Prevention of Nuisance; and**

**Protection of Children from Harm.**

Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.

The Licensing Sub-Committee must also consider the London Borough of Hillingdon's Statement of Licensing Policy when deciding whether or not to grant the application.

The terms of the Statement of Licensing Policy are highly persuasive, but not binding, on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance

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## PART1 – MEMBERS, PUBLIC AND PRESS

contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.

Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act 2003 must prevail.

Members are required to have regard to the Home Office Guidance issued under section 182 of the Licensing Act 2003 in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

When relevant representations are received then the Sub-Committee must have regard to them.

The Licensing Sub-Committee can attach a “weight” to any relevant representations, such factors that could influence the “weight” to be placed on a representation could include:-

- Whether the representation can be clearly related to any one of the four licensing objectives;
- Whether the representation concerns matters over which the applicant is able to exercise control;
- Whether the representation is based on “hearsay” evidence;
- Whether the representation is supported by firm evidence;
- Whether the person making the representation has attended the hearing in person.

Having considered all relevant representations, and having taken into account the promotion of the licensing objectives, a decision can be taken:-

- To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule modified to such extent as the authority considers appropriate for the promotion of the licensing objectives;
- To exclude from the scope of the certificate any of the qualifying club activities to which the application relates;
- To reject the application.

## **Reasons**

If the Sub-Committee determines that it is necessary to modify the conditions, or to refuse the application for a Club Premises Certificate application, it must give reasons for its decision.

## **The Role of the Licensing Sub-Committee**

Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as an authority responsible respectively for environmental health, trading standards, health and safety, safeguarding children, public health and as the planning authority.

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to **perform the role of licensing authority**. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory

authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.

As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, the occurrence of which would be relevant.

The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

The Sub-Committee can only consider matters within the application that have been raised through representations from Responsible Authorities and other persons. This will be decided on a case to case basis.

Under the Human Rights Act 1998, the Sub Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Responsible Authorities, other persons making representations and the applicant have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

## **FINANCIAL IMPLICATIONS**

Members should be aware that the Residents Services directorate does not have a budget provision for costs, should the applicant be successful in appealing to the Magistrates Court against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.

## **BACKGROUND DOCUMENTS:**

The Licensing Act 2003  
Guidance under Section 182 of the Licensing Act 2003  
The Council's Statement of Licensing Policy