

# APPLICATION FOR THE GRANT OF A PREMISES LICENCE: COW BYRE TEA ROOMS / BISTRO

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Jhini Mukherjee, Licensing Service
<b>Papers with report</b>	<b>Appendix 1</b> - Application for the grant of a new premises licence <b>Appendix 2</b> - Representation from Susan Toms on behalf of Ruislip, Northwood & Eastcote Local History Society <b>Appendix 3</b> - Representation from Lesley Crowcroft on behalf of Eastcote Conservation Panel <b>Appendix 4</b> - Map of the area <b>Appendix 5</b> - Photos of the surrounding area and the interior of the premises
<b>Ward name</b>	Eastcote and East Ruislip

## 1.0 SUMMARY

To consider an application for a premises licence, as seen in **Appendix 1**, in respect of Cow Byre Tea Rooms / Bistro, Bury Street, Ruislip, HA4 7SU, which has attracted representations from Ruislip, Northwood & Eastcote Local History Society and Eastcote Conservation Panel.

## 2.0 RECOMMENDATION

To grant the licence consistent with the operating schedule conditions.

## 3.0 APPLICATION

The new premises licence application has been submitted by Mrs Anita Morar and Mr Dilip Morar to enable them to sell a selection of alcoholic drinks to their clientele on some evenings of the week. The premises is an established tea room which is not operating at the present time. According to the description provided by the applicant on their Application Form which is appended in Appendix 1, "the Cow Byre will make its best efforts to create a unique place where customers can socialise with each other in a comfortable and relaxing environment, while enjoying a coffee, tea, cold drink along with pastries, small salads and sandwiches initially. We will also hope to offer (if approved) spirits, wines and prosecco for the evening clientele."

The application submitted is for a licence to sell alcohol on Thursday, Friday and Saturday evenings from 17.00 hours till 23.00 hours. The applicant also wants to showcase the musical talents of a local guitarist by way of live entertainment on those same evenings, i.e., Thursday, Friday and Saturday from 19.00 hours till 23.00 hours. Both the sale and supply of alcohol and provision of live music will be held indoors.

### 3.1 Type of application applied for

New Premises Licence application under Licensing Act 2003

### 3.2 Description of the premises

The premises is a tea room located inside the historic Manor Farm complex, just off Ruislip High Street. The owners of the premises are planning to re-open the tea room in April 2020 and to add

more value to their business they are proposing to open on some evenings of the week offering a place where customers can drink socially. Behind the characterful building, the restaurant area inside can accommodate up to a maximum of 30 covers and all the licensable activities will be held indoors.

### 3.3 Licensable Activities

<u>Activity</u>		<u>Proposed for new premises licence</u>
Sale of alcohol	Consumption on the premises only	x
Provision of live music	Indoors only	x

### 3.4 Opening Hours and proposed hours for licensable activity

	Opening hours of the premises	Proposed hours for sale by retail of alcohol	Provision of live music
<b>Monday</b>	09:00 - 17:00		
<b>Tuesday</b>	09:00 - 17:00		
<b>Wednesday</b>	09:00 - 17:00		
<b>Thursday</b>	09:00 - 23:00	17.00 - 23.00	19.00 - 23.00
<b>Friday</b>	09:00 - 23:00	17.00 - 23.00	19.00 - 23.00
<b>Saturday</b>	09:00 - 23:00	17.00 - 23.00	19.00 - 23.00
<b>Sunday</b>	09:00 - 17:00		

### 3.5 Other licensed premises on Green Lane between Waitrose and Misty Moon

<b>Premises</b>	<b>Activities Authorised</b>	<b>Times Authorised</b>
Great Barn, Manor Farm Complex Bury Street, Ruislip HA4 7SU	Sale by retail of alcohol; Provision of regulated entertainment.	<p><b><u>The sale by retail of alcohol</u></b></p> <p>On Fridays and Saturdays from 12.00 hours to 23.00 hours. On Sundays from 10.00 hours to 16.00 hours.</p> <p><b><u>The provision of regulated entertainment</u></b></p> <p>From 09.00 hours to 00.00 hours every day.</p>

<p>Winston Churchill Hall (including grounds) Manor Farm Site Pinn Way, Ruislip, HA4 7QL</p>	<p>Sale by retail of alcohol; Provision of regulated entertainment.</p>	<p><b><u>The sale by retail of alcohol</u></b> Between 18.00 hours and 23.00 hours each day.</p> <p><b><u>The provision of regulated entertainment</u></b> Between 09.00 hours and 00.00 hours each day.</p> <p><b>All licensable activities</b> New Year's Eve between 09.00 hours and 02.00 hours the following day.</p>
<p>Ruislip Bowls Club Manor Farm Bury Street, Ruislip HA4 7SU</p>	<p>Provision of films; Provision of Indoor sporting events; Provision of live music; Provision of recorded music; The sale by retail by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place.</p>	<p><b><u>Provision of films</u></b> and</p> <p><b><u>Provision of Indoor sporting events:</u></b> From 10:00 hours until 22:30 hours every day.</p> <p><b><u>Provision of live music:</u></b> From 18:30 hours until 22:30 hours every day.</p> <p><b><u>Provision of recorded music</u></b> and</p> <p><b><u>The sale by retail by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place:</u></b>  From 10:00 hours until 23:00 hours every day.</p>
<p>Mill Bowling Club Manor Farm Bowling Green Bury Street, Ruislip, HA4 7SU</p>	<p>The sale by retail by or on behalf of a club to a guest of a member of the club for consumption of alcohol on the premises where the sale takes place.</p>	<p><b><u>The sale by retail by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place:</u></b>  Monday to Friday - 13:00 hours until 23:00 hours. Saturday to Sunday - 11.00 hours until 23.00 hours.</p>

### 3.6 Operating Schedule and Conditions

Section 18 of the Application Form (Appendix 1) is the operating schedule which demonstrates the steps the applicant proposes to take in order to promote the licensing objectives.

## 4.0 **CONSULTATION**

### 4.1 Closing date for representations

16 December 2019

### 4.2 Public Notice published in local newspaper

27 November 2019 - Uxbridge Gazette

## 5.0 REPRESENTATIONS

5.1 We have received two representations which are tabularised below:

Interested Parties	Ground for Representation	Appendix
Representation from Susan Toms on behalf of Ruislip, Northwood & Eastcote Local History Society	Prevention of Crime and Disorder, Prevention of Public Nuisance	Appendix 2
Representation from Lesley Crowcroft on behalf of Eastcote Conservation Panel	Prevention of Crime and Disorder, Prevention of Public Nuisance	Appendix 3

## 6.0 BACKGROUND INFORMATION

### 6.1 Designated Premises Supervisor (DPS)

The proposed DPS is Mr Dilip Morar.

6.2 Map of the area and photos of the premises and the surrounding area are attached as **Appendices 4 and 5**.

6.3 There was one recorded Members' Enquires for this premises from 1 December 2018 relating to the closure of the cafe after the previous tenant left.

## 7.0 OFFICER'S OBSERVATIONS

7.1 This is an application from an independent tea room situated in the 22-acre Manor Farm complex. This was a well-established tea room until November 2018 when the cafe stopped operating as the previous tenant vacated the place. The applicants are the new tenants who want to provide a fuller experience to visitors to the site.

7.2 The representations received mainly raise the following issues:

- a) **The prevention of crime and disorder** - Both the representations addresses the crime and disorder objective as there are concerns over the sale of alcohol leading to a rise in antisocial behaviour and other crimes such as vandalism to the area. The main view of the objectors is that the concealed location of the place will attract more anti-social behaviour to the area. S. 182 of the Home Office's published guidance refers to the Police as being the main source of advice on crime and disorder. The Metropolitan Police are statutory consultees for any new premises licence application and they have not raised any objection to this. Furthermore, our Council's Licensing Policy and the Guidance, both indicate, that the hours that shops could generally be allowed to sell alcohol was to reflect the trading hours unless there was a good reason to restrict this. The applicants have proposed certain conditions in the operating schedule to demonstrate the steps which they will take to uphold this licensing objective which the licensing department is satisfied with.
- b) **The prevention of public nuisance** - Both the representations also refer to the public nuisance objective. The main concerns raised were directly connected to the possibility of a noise nuisance occurring from the proposed hours of sale of alcohol and provision of live music. The operating schedule addresses the steps the applicants will take to address this concern. In accordance with the Council's Licensing Policy, arbitrary restrictions that would undermine the principle of flexibility are always avoided by the licensing department and each case is judged on its individual merits. There is no fixed

restriction on terminal hours for any particular areas of the borough and the hours proposed for some evenings by the applicants are considered to be not too excessive for the area.

## **8.0 Relevant sections of S.182 Guidance**

### **Determining actions that are appropriate for the promotion of the licensing objectives**

**At paragraph 9.42** it states that "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".

**At paragraph 9.43** it states that "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".

**At paragraph 9.44** it states that "Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is 76 | Revised Guidance issued under section 182 of the Licensing Act 2003 imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination".

### **Proportionality**

**At paragraph 10.10** it states that "The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives".

### **Hours of trading**

**At paragraph 10.13** it states "The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct

licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application"

**At paragraph 10.15** it states "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours".

### **Licensing hours**

**At paragraph 14.51** it states "With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application".

**At paragraph 14.52** it states "Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so".

### **The need for licensed premises**

**At paragraph 14.19** it states "There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of Revised Guidance issued under section 182 of the Licensing Act 2003 I 109 licensing policy".

## **9.0 Relevant sections of the Licensing Policy**

### **Licensing Hours**

**At Paragraph 21.1** it states that "Prior to the introduction of the Licensing Act 2003, it was believed that fixed and artificially early closing times (established under the Licensing Act 1964) were one of the key causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large number of customers were required to leave the premises simultaneously".

**At Paragraph 21.2** it states that "The aim through promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times".

**At Paragraph 21.3** it states that "Arbitrary restrictions that would undermine the principle of flexibility will therefore be avoided. The four licensing objectives will be paramount at all times and the Council will always consider the individual merits of each case".

**At Paragraph 21.4** it states that "In accordance with guidance there is no fixed restriction on terminal hours for any particular areas of the borough. Such a restriction could cause the migration of patrons from one area to another and create the circumstances that the legislation is attempting to avoid. Each application will be dealt with on its merits. It is for the applicants to detail in their Operating Schedule exactly what times they intend to open and close the premises and what measures they will take to ensure that they do not cause nuisance or disturbance to their neighbours in the vicinity. The later the terminal hour applied for, the greater will be the need to address the issues of disturbance and nuisance".

**At Paragraph 21.5** it states that "Shops, stores and supermarkets licensed to sell alcohol will normally be allowed to do so for the full duration of their trading hours. Restrictions may be applied, for example where representations are made indicating the particular premises or patrons of the premises are linked to disorder and or disturbance".

### **Licence Conditions**

**At Paragraph 17.1** it states that " Conditions on premises licences and club certificates are determined by:

- a) The measures put forward on the Operating Schedule
- b) Mandatory conditions within the Act
- c) Measures decided at a hearing by the Licensing Sub Committee"

**At Paragraph 17.2** it states that "Any conditions attached to licences following relevant representations will focus on matters within the control of the Premises Licence Holder or Club Management Committees. They will address matters which have a direct impact on those living, working or engaged in normal activities in the vicinity, as well as patrons of the licensed premises. They will not be used as a means of attempting to attach responsibility to Premises Licence Holders or Club Management Committees for matters outside their reasonable control, such as anti-social behaviour once away from the premises or licensable activity".

**At Paragraph 17.3** it states that "The Licensing Authority will not impose standard conditions upon every licence issued, however it may have regard to model conditions produced by the Government and/or the Institute of Licensing and it may choose to impose these in appropriate circumstances".

## **10.0 LEGAL CONSIDERATIONS**

### **LEGAL COMMENTS**

10.1 When considering an application for a grant of a new Premises Licence, the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:

- Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Protection of children from harm

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

- 10.3 An application for a new premises licence may be made pursuant to s.16 and s.17 of the Act, and with regard to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005/42 and the licensing Act 2003 (Fees) Regulations 2005/79.
- 10.4 The Sub-Committee must ensure that all licensing decisions:
- Have a direct relationship to the promotion of one or more of the four licensing objectives
  - Have regard to the Council's statement of licensing policy
  - Have regard to the Secretary of State guidance
  - Must not be subject to a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded
- 10.5 Where relevant representations are made, the Licensing Authority must hold a hearing to determine the application, unless all are agreed that such a hearing is unnecessary s.18(3)(a) Licensing Act 2003.
- 10.6 Relevant representations are those that relate to the effect of the granting of the application on the promotion of the licensing objectives made by an interested party or responsible authority that have not been withdrawn and are not, in the opinion of the relevant licencing authority, frivolous or vexatious s.18(7) Licensing Act 2003.
- 10.7 The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live within the vicinity of the premises. All applications will be decided on a case by case basis.
- 10.8 Following a hearing, the Sub-Committee must consider all relevant representations, and having taken into account the promotion of the licensing objectives, under s.18(3)(b) and (4) Licensing Act 2003, a decision can be taken:-
- i. To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule;
  - ii. To impose additional relevant conditions to such an extent as is considered necessary for the promotion of the licensing objectives;
  - iii. To exclude any of the licensable activities to which the application relates;
  - iv. To amend the times for all or some of the licensable activities;
  - v. To refuse to specify a person in the licence as the premises supervisor;
  - vi. To reject the application.
- 10.9 Conditions will not be necessary if they duplicate a current statutory requirement. The licencing Authority may therefore only impose such conditions that are necessary to promote the licensing objectives arising out of the consideration of the representations.
- 10.10 If the Sub-Committee determines that it is necessary to modify the conditions, or to refuse the application for a Premises Licence application, it must give reasons for its decision.
- 10.11 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under s.149 of the Equality Act 2010. In summary s.149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:
- i. Eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - ii. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - iii. Foster good relations between persons who share relevant protected characteristics and persons who do not.

- 10.12 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics examples are; race, sex, age, disability, gender reassignment and religious beliefs.
- 10.13 Officers have provided the Sub-Committee with recommendations related to this application. Subject to the above-mentioned factors having been properly considered, the Sub-Committee may depart from the recommendations if there are good reasons for doing so. The Sub-Committee is advised that such departures could give rise to an appeal or judicial review.
- 10.14 Interested parties, Responsible Authorities and the Applicant have the right to appeal the decision of the Licensing 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.