

APPLICATION FOR THE GRANT OF A PREMISES LICENCE: ST HELEN'S SCHOOL

Committee	Licensing Sub-Committee
Officer Contact	Mark McDermott - Licensing Officer
Papers with report	Appendix 1 - Application for the grant of a new Premises Licence Appendix 2 - Plan of premises Appendix 3 - Representation from local resident Appendix 4 - Response to resident by applicant Appendix 5 - Email from Metropolitan Police Appendix 6 - Map of whole campus and surrounding areas
Ward	Northwood

1.0 SUMMARY

To consider an application for a new Premises Licence as seen in **Appendix 1** in respect of St Helen's School, Eastbury Road, Northwood HA6 3AS which has attracted a representation from one interested party.

2.0 RECOMMENDATION

To grant the licence as sought with an additional condition as follows: *'Notices shall be prominently displayed requesting patrons to respect the needs of local residents and leave the area quietly.'*

3.0 APPLICATION

The new Premises Licence application has been made by Maria Dimmock on behalf of St Helens School Northwood a registered Charity for an on-licence, situated within St Helen's School, Eastwood Road, Northwood, HA6 3AS. The application is for a licence to sell alcohol on Fridays, from 16.00 hours to 20.00 hours.

3.1 Type of application applied for

New Premises Licence application under Licensing Act, 2003.

3.2 Description of the premises

The proposed premises are for a Part of a building within St Helen's School's campus on the ground and first floors to be used as a place for staff and their invited guests to gather socially after the end of the school day on a Friday from 16.00 to 20.00.

3.3 Licensable Activities

<u>Activity</u>		<u>Proposed for new premises licence</u>
Sale of alcohol	Consumption on the premises	x

3.4 Opening Hours and proposed hours for licensable activity

	<u>Opening hours of the premises</u>	<u>Proposed hours for sale by retail of alcohol</u>
Friday	16:00 - 20:00	16:00 - 20:00

3.5 Other licensed premises in the immediate vicinity

There are no other licensed premises within the immediate vicinity.

3.6 Operating Schedule and Conditions

Section 18 of the operating schedule of the application demonstrates the steps the applicant proposes to take in order to promote the licensing objectives, which is as follows:

General

The School takes its responsibilities for the licensing of its facility seriously and intends only for it to open on one day each week for 4 hours as a social gathering for staff and invited guests.

The Prevention of Crime and Disorder

The facility will be open to school staff and their invited guests only and so all are known to the School.

Public Safety

The facility is situated in the middle of the School's 22-acre campus and not accessible to the general public.

The Prevention of Public Nuisance

The facility is in the middle of the School's 22-acre campus and so nuisance to neighbours is not envisaged during opening hours. After hours, there are various exit points from the School campus keeping noise to a minimum.

The Protection of Children from Harm

Children will not be allowed into the facility and the school day will have finished before opening.

4.0 CONSULTATION

4.1 Closing date for representations
1 July 2021

4.2 Public Notice published in local newspaper
9 June 2021 – Uxbridge Gazette

5.0 REPRESENTATIONS

5.1 One representation has been received from an Interested Party.

Interested Parties	Ground for Representation	Appendix
Ms Sally Corless Carew Lodge Residents Association	Prevention of Public Nuisance and Protection of Children from harm	Appendix 2

5.2 An email from the Metropolitan Police has also been received, raising no objection appended as **Appendix 5**.

6.0 BACKGROUND INFORMATION

6.1 Designated Premises Supervisor

The proposed designated Premises Supervisor is Maria Dimmock; she is the holder of a personal licence granted by Islington Council Licence number LN20527.

6.2 Map of the campus and the surrounding area are attached as **Appendix 6**.

6.3 There have been no recorded Members' Enquires for this premises.

7.0 OFFICER'S OBSERVATIONS

7.1 This is an application for a Premises Licence for a social club within the School campus in a designated area as shown on the plan on the ground and first floors. It is for the use of staff and invited guests between the hours of 16.00 and 20.00 on Fridays only. As the proposed operation is for four hours, once a week and confined to staff members and invited guests within the school regime, I believe that there is minimal potential to undermine any of the Licensing objectives.

I have attempted to mediate with the applicant and objector suggesting that appropriate conditions may be able to be agreed to deal with the objector's concerns. Disappointingly, agreement could not be reached, and I have attached the applicant's response to the resident's objection at **Appendix 4**.

7.2.1 The representation received mainly raised the following issues:

- a) **The Prevention of Public Nuisance** – The representation refers to the Public Nuisance objective, the only relevant concern raised relates to the potential increase in noise and

disruption to the neighbourhood. I believe the potential to undermine this objective is minimal due to limited operating hours and the premises being contained within a school campus.

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 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".

9.0 Relevant sections of Hillingdon's Licensing Policy

Licensing Hours

At Paragraph 25.1 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 25.2 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 25.3 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 25.4 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 25.5 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 20.1 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 20.2 it states that "Conditions attached to licences by the Licensing Authority that have been proposed by the applicant in their operating schedule should be consistent with the steps set out in the operating schedule. This means that the effect of these conditions should be substantially the same as that intended by the terms of the operating schedule".

At Paragraph 20.3 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 20.4 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

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) Licencing 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 these are:

- i. age
- ii. gender reassignment
- iii. being married or in a civil partnership
- iv. being pregnant or on maternity leave
- v. disability
- vi. race including colour, nationality, ethnic or national origin
- vii. religion or belief
- viii. sex
- ix. sexual orientation

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.