

15 September 2020

Licensing and Appeals Committee

**Licensing Sub-Committee Hearing in respect of an
Application to Review a Premises Licence – Licensing Act 2003**

THE CRICKETERS, MILL GREEN ROAD, FRYERNING CM4 0RH

Report of: Dave Leonard – Licensing Officer

Wards Affected: Ingatestone & Fryerning

This report is: Public

1. Executive Summary

- 1.1 An application has been received for a review of the premises licence in respect of **The Cricketers, Mill Green Road, Fryerning CM4 0RH**. Twenty relevant representations have been received during the consultation period. The review relates to all four Licensing objectives: **prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.**

2. Recommendation(s)

- 2.1 That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application for the review of the premises licence.

3. Introduction and Background

- 3.1 An authorisation is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

- 3.2 An appropriate authorisation is either, a premises licence, a club premises certificate or a Temporary Event Notice.
- 3.3 Licence holders are required, when offering any licensable activity, to ensure that they promote the licensing objectives at all times. The operating schedule of the application contains details of the activities applied for and the control measures that the applicant will have in place in order to promote these objectives. Such measures will, where appropriate, be converted into enforceable conditions on any licence issued.
- 3.3 The four licensing objectives are;
- Prevention of crime and disorder
 - Prevention of public nuisance
 - Public safety
 - Protection of children from harm
- 3.5 Any representation must be able to demonstrate that on the balance of Probability the application in its current form will fail to adequately promote one or more of the licensing objectives. No other matters may be considered.

4. The Application

- 4.1 On the 19 July 2020 an application for a Review was received from Mr David Dadds on behalf of the Mill Green Conservation Society, for a review of the premises licence in respect of **The Cricketers, Mill Green Road, Fryerning CM4 0RH**.

A copy of the Review application is attached as **Appendix 1** and makes reference to all four licensing objectives.

- 4.2 This Premise is currently a local pub with a restaurant occupying the ground floor with a large car park to the rear with residential housing surrounding the building. The licence holder is Gray & Sons (Chelmsford) Ltd. and the DPS named on the licence is Mr Rupert Cherryman. A copy of the premises licence together with OS street maps & images to better identify the location are attached at **Appendix 2**
- 4.3 No representations have been received from the Responsible Authorities.
- 4.4 There have been ten representations received from local residents supporting the application seeking the review of the licence. Generally, they are supportive of the premises as a country pub but are unhappy with the current management of the premises. Whilst all four licensing objectives have been cited, the main

grievances received relate to noise disturbance and anti-social behaviour from the increased numbers and use of the rear beer garden for entertainment and, more recently, during the coronavirus lockdown of licensed premises period where, as a direct result of the pub's takeaway service, the green opposite and surrounding area witnessed unprecedented noise nuisance and anti-social behaviour caused by visiting customers. These statements are attached at **Appendix 3**.

- 4.5 There have also been ten representatives received in support of The Cricketers and the current management of the premises. The letters of support claim that the investment and improvements made to the premises has had a positive impact and makes The Cricketers a valuable asset to the community. These statements are also attached at **Appendix 3**.

5. Reasons for Recommendation

These are the options available to the Sub-Committee

- 5.1 The Committee, after considering the review application and all of the relevant representations, will need to consider what action, if any, to take in order to ensure that the Licensing Objectives are complied with.
- 5.2 The following options are available to the Licensing Sub-Committee:
- Do nothing with the licence;
 - To modify the conditions of the premises licence. This can include adding new conditions or alterations to existing conditions e.g. reducing the hours of operation;
 - To exclude a licensable activity from the scope of the licence e.g. to exclude regulated entertainment after a certain hour,
 - To remove the Designated Premises Supervisor e.g. because it is considered that the problems are being caused by poor management;
 - To suspend the licence for a period not exceeding three months;
- 5.3 The decision made by the committee will not take effect until the end of the period given for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.
- 5.4 In determining this application for review of the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.

- 5.5 The Sub-Committee are advised that the hearing is a statutory exercise of power delegated by local residents to consider what the public interest requires. The licensing authority, via the Sub-Committee, has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure. Representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 5.6 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.
- 5.7 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

6. Consultation

- 6.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003.

7. Statement of Licensing Policy

- 7.1 Please see Section 22 of Brentwood's policy with reference to 22.2.

Applicants need to be clear the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant reorientations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.

8. Relevant Section of the Secretary of State's Guidance

- 8.1 The licensing objectives relating to public and noise nuisance matters arising from this application are covered in Section 2, paragraphs 2.15 to 2.21 (pages 9 & 10) of the Licensing Act 2003, Section 182 Guidance (April 2018).
- 8.2 In relation to the review process covered in Section 11, when made by a person other than a responsible authority;

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious.

9. Legal Considerations

- 9.1 Brentwood Council as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature. Notice must be given of the Licensing Authority's decision on this matter. The decision could be subject to an appeal to a Magistrates Court, which can be instigated by either the applicant or the person who made the representation..

10. Appendices to the report:

- Appendix 1 - Application Form
- Appendix 2 - Premises Licence, OS street maps & images
- Appendix 3 - Representation from Other Parties (For)
Representation from Other Parties (Against)

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