

Committee(s): Licensing Sub-Committee	Date: 14 December 2022
Subject: Determination of an Application to Vary a Premises Licence	Wards Affected: Tipps Cross
Report of: Dave Leonard, Licensing Officer	Public
Report Author/s: Name: Dave Leonard Telephone: 01277 312523 E-mail: dave.leonard@brentwood.gov.uk	For Decision

Summary

The Licensing Office has received an application to vary the premises licence at the **Prince Albert, The Green, Blackmore CM4 0RT** to extend the supply of alcohol for the consumption both on and off the premises to 1100hrs-0000hrs Monday-Thursday, 1100hrs-0100hrs the following day Friday & Saturday & 1100hrs-2300hrs on Sunday. The application also wishes to add the provision of late-night refreshment from 2300hrs-0000hrs on Monday-Thursday & 2300hrs-0100hrs the following day on Friday & Saturday. The amended application is no longer seeking the provision of live music. The application also seeks to remove the embedded restrictions and conditions at Annex 2 of the licence and replace them with revised conditions. No representations were received from Responsible Authorities although additional conditions were agreed following consultation with both Essex Police & the Environmental Health Noise Pollution Team. There were 46 representations received from Other Persons which consisted of 29 persons from 21 local households, 4 representations from ward & parish council members & 4 representations received from persons not wishing their personal details to be disclosed into the public domain. A further 9 representations were received from Other Persons who did not provide their address.

Recommendation(s)

Members are asked to:

Consider this report and appendices together with any oral submissions at the hearing & determines the application in line with the options open to the sub-committee under the Licensing Act 2003. However, the available options are;

- R1.** To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;
- R2.** To grant the application in full, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- R3.** To reject the application in whole or in part

Main Report

Introduction and Background

- 1.1 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
- 1.2 An appropriate authorisation is either, a premises licence, a club premises certificate or a Temporary Event Notice.
- 1.3 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.
- 1.4 The four licensing objectives are;
 - Prevention of crime and disorder
 - Prevention of public nuisance
 - Public safety
 - Protection of children from harm
- 1.5 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.

Issue, Options and Analysis of Options

- 2.1 This application to vary the premises licence was received on 19 October 2022 from Mr Graham Hopkins at GT Licensing on behalf of Mr George Hand, director of Holme Property Maintenance & Development Ltd (the premises licence holder) in respect of **Prince Albert, The Green, Blackmore CM4 0RT**. A copy of the application is attached at **Appendix A**.

****On 4 December 2022 Mr Hopkins, sent an updated confirmation that the applicant has removed a request for the provision of live music altogether from the application. This amendment, and the email sent by this office on behalf of Mr Hopkins to all parties making representation updating them of the changes, is now also attached at Appendix A***

- 2.2 The premises currently operates as a licenced public house situated in a small village and the applicant has now amended the application and seeks to extend the supply of alcohol for the consumption both on and off the premises and to add the provision late-night refreshment as follows:

Proposed sale of alcohol for consumption on and off the premises;

Monday to Thursday 1100 to 0000

Friday and Saturday 1100 to 0100 the following morning

Sunday 1100 to 2300

Proposed hours for the provision of late-night refreshment

Monday to Thursday 2300 to 0000

Friday and Saturday 2300 to 0100 the following morning

Proposed opening hours of the premises

Monday to Thursday 1100 to 0030 the following morning

Friday and Saturday 1100 to 0130 the following morning

Sunday 1100 to 2330

A copy of the current premises licence, together with a set of OS Street Maps and images to better identify the location are attached at **Appendix B**.

- 2.3 There were no representations received from the Responsible Authorities.

This followed constructive consultation between the applicant and Essex Police Licensing Officer, Mr Simon Barnes in which the following recommendations were accepted to the operating schedule to be attached as conditions to any subsequently issued premises licence;

1. The premises shall have installed and maintain a closed-circuit television surveillance (CCTV) system which at all times complies with the below requirements:
 - a. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;
 - b. CCTV cameras shall cover all entrances and exits and the areas where alcohol sales take place;
 - c. Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of 31 days;

Upon the reasonable request of the police or licensing authority staff, within 48 hours viewable copies of recordings will be provided.

2. Signs must be displayed at all entrances and exits advising customers that CCTV is operating at the premises & shall be a minimum size of 200x148mm & clearly legible at all times when the premises conducts licensable activities.
3. An incident log shall be kept at the premises and made immediately available to police or licensing authority staff upon reasonable request. The log must be completed as soon as is possible and within any case within 4 hours of the occurrence and shall record the following:
 - a. all crimes reported to the venue
 - b. all ejections of patrons
 - c. any complaints received concerning crime and disorder
 - d. any incidents of disorder
 - e. all seizures of drugs or offensive weapons
 - f. any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licenceThe incident log shall either be electronic or maintained in a bound document with individually numbered pages and be retained for at least 12 months from the date of the last entry.
4. Except when being used for entry or egress by a patron, all external windows and doors shall be kept shut at all times when music is being played.
5. Notices shall be displayed at all exits requesting customers to be respectful of neighbours when leaving the premises.
6. Notices will be placed outside the premises detailing a contact number for nearby residents to contact to make complaints regarding noise alongside the out of hours number for Brentwood Council Environmental Health as detailed on the Council website.
7. A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement (photo, name, date of birth and either a holographic mark or ultraviolet feature) & is either a:
 1. Proof of age card bearing the PASS Hologram;
 2. Photocard driving licence;
 3. Passport; or
 4. Ministry of Defence Identity Card.
8. The premises shall clearly display signs at each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force. At the point of sale, such signs shall be a minimum size of 200mm x 148mm.
9. A refusals record shall be maintained at the premises that details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police, trading standards or licensing authority staff upon reasonable request.

The refusals record shall be either electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.

10. All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months. Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.

Likewise, following consultation with Brentwood Council's Environmental Health (Noise Pollution) Officer, Miss Rebecca Page, the following recommendations were also agreed upon and accepted to be attached as conditions to any subsequently issued premises licence;

- All door and windows will be shut when live and/or recorded music is played. Windows will be double-glazed.
- Amplified music and speech emitted from the premises shall be so controlled as to be inaudible at or within neighbouring dwellings when or if assessed by Environmental Health Officers.
- Between the hours of 23.00 and 00.00, staff will carry out noise patrols to ensure music noise is not heard at the nearest noise sensitive residential properties. If noise is heard, music will be lowered accordingly.

Both Mr Barnes' and Miss Page's correspondence & consultation agreements with the applicant are attached at **Appendix C**.

- 2.4 There were 46 representations received which consisted of 29 persons from 21 local households, 4 representations from ward and parish council members and 4 representations received from persons not wishing their personal details to be disclosed into the public domain. A further 9 representations were received from Other Persons who did not provide their address. These representations primarily relate to concerns of noise nuisance in respect of the proposed increased hours, including entertainment, and the impact on the neighbourhood caused as a result of outside activities and an extended dispersal period in a quiet rural village with a very limited transport and policing infrastructure. These representations are attached at **Appendix D**.

Reasons for Recommendation

- 3.1 These are the options available to the Sub-Committee

Consultation

- 4.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003.
- 4.2 Officers from the licensing authority have made several checks on the display of notices to ensure that the blue advertising notice was correctly on display at the front of the building.
- 4.3 Copies of all representations have been served on the applicant.

References to Corporate Plan

None

Implications

Financial Implications

There are no financial implications for this report.

Legal Implications

Conditions may be attached to the grant of any licence, the hours or activities may be amended as appropriate, or in some cases the application may be refused. However, any action taken must be appropriate and relevant to promotion of the licensing objectives having considered the full details of the application and representations including testimony from any interested party present at the hearing.

The justification behind any decision to grant or refuse a licence application or the attachment of conditions, or variation of terms applied for must be recorded and given to the applicant and any person that has made representation.

There is a right of appeal to Magistrates Court by any person or party aggrieved by any decision made by the Sub-Committee.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 5.1 The Council has a duty under Section 17 of the Crime & Disorder Act 1998 to do all that it reasonably can to prevent:
 - (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
 - (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this duty the Sub-Committee should have due regard to the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of the Act and the Council's own Statement of Licensing Policy.

The Licensing Sub-Committee is of a quasi-judicial nature and whilst the Licensing Committee should ensure equality of treatment for all groups in the granting of licences, due regard should be given to its responsibility to promote the licensing objectives & its duties under Section 17 of the Crime & Disorder Act 1998. This includes full consideration of the need to prevent crime and disorder, ensure public safety, the prevention of public nuisance & the protection of children from harm. Where it finds that the need to comply with those duties is reasonably inferred, it must determine the application appropriately.

Background Papers

- The Licensing Act 2003
- The Secretary of State's Guidance issued under section 182 Licensing Act 2003
- Brentwood Borough Council's Statement of Licensing Policy

6. Relevant Sections of the Secretary of State's Guidance

- 6.1** The following guidance issued under Section 182 Licensing Act 2003 relates to determining applications in relation to promoting the licensing objectives and the hours of trading;

Steps to promote the licensing objectives

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area.

Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Disclosure of personal details of persons making representations

9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regns 2005 to provide the applicant with copies of the relevant representations that have been made.

9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.

9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.

9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.

9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hours of trading

10.13 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.

10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

6.2 Statement of Licensing Policy

Brentwood Borough Council's Statement of Licensing Policy makes reference to;

Prevention of Public Nuisance

22.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain & protect the amenity of residents & other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

22.2 The Licensing Authority intends to interpret "public nuisance" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area

22.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

Appendices to this report

Appendix A - *Application to Vary a Premises Licence (received 19 October 2022) including amendment (4 December 200)*

Appendix B - *Current Premises Licence, OS Maps and Images*

Appendix C - *Responsible Authorities; Agreed Recommended Conditions
Essex Police (Licensing) – Mr Simon Barnes
Environmental Health (Noise Pollution)- Miss Rebecca Page*

Appendix D - *Representations from Other Persons*

Report Author Contact Details:

Name: Dave Leonard

Telephone: 01277 312523

E-mail: licensing@brentwood.gov.uk