

# East Herts Council Report Template

## Licensing Sub-Committee

**Date of Meeting:** 18<sup>th</sup> MAY 2021 adjourned until 27<sup>th</sup> MAY 2021

**Report by:** Jonathan Geall, Head of Housing and Health

**Report Title:** Application for a New Premises Licence for Silver Leys Polo Club, Millfield Lane, Bury Green, Little Hadham, Hertfordshire, 21/0172/PL

**Ward(s) affected:** Little Hadham

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### Summary

- An application for a new premises licence has been made and representations against the application have been received from residents acting as an Interested Parties. When representations have been received against an application and have not withdrawn, it is for a meeting of the Licensing Sub-Committee to decide that application. The report is to inform that decision.

## RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE

**(a) The application for a new premises licence is decided.**

### 1.0 Proposal(s)

- 1.1 Members of the Licensing Sub-Committee should determine the application for a new premises licence through consideration of the information contained in this report and appendices combined with submissions made at the Licensing Sub-Committee hearing.

## 2.0 Background

2.1 Under the Licensing Act 2003 and the council's policy an application for a new or variation to a licence or certificate is granted by officers under delegated authority if no valid representations are received.

2.2 Where valid representations are received the Licensing Authority's discretion is engaged. A Licensing Sub-Committee has the delegated authority to determine applications for new and varied licences and certificates. This decision must be made whilst having regard to the licensing objectives, the Licensing Authority's own Statement of Licensing Policy and to statutory guidance issued by the Secretary of State under section 182 of the Licensing Act.

2.3 The licensing objectives are:

- prevention of crime and disorder
- public safety
- prevention of public nuisance; and
- protection of children from harm.

## 3.0 Reason(s)

3.1 The application for a new premises licence was submitted and completed by Mr Nicholas Gerard on 23<sup>rd</sup> March 2021. The application has been correctly advertised and consulted upon as required by legislation and regulations.

3.2 The application requests the following licensable activities:

<b>Licensable Activity</b>	<b>Day</b>	<b>Hours applied for</b>
Supply of Alcohol ( for consumption	Sunday – Friday	11:00 – 22:00
	Saturday	11:00 – 23:00

both on the premises)		
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3.3 A redacted copy of the application form and supporting documents are attached as **Appendix 'A'**.

3.4 Section 18 of the application form asks the applicant to describe any steps they intend to take to promote the four licensing objectives as a result of the application. The steps stated are:

- a) A log book or recording system shall be kept upon the premises in which shall be entered particulars of inspections made; those required to be made by statute, and information compiled to comply with any public safety condition attached to the premises licence that requires the recording of such information. The log book shall be kept available for inspection when required by persons authorised by the Licensing Act 2003 or associated legislation.
- b) Adequate access is provided for emergency vehicles.
- c) All exit doors are easily operable without the use of a key, card, code or similar means when the premises are for licensable activity.
- d) Firefighting equipment is appropriate and prominently displayed.
- e) Prominent, clear and legible notices will be displayed at all exits requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.
- f) Deliveries of materials necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.
- g) The Licensee will ensure that staff who arrive early morning or depart late at night when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents.

- h) A specific taxi operator has been nominated for staff and customers use. The company's telephone number is advertised to customers. The operators, and all drivers, are aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival.
- i) All external lights on the licensed premise's and parking area will be screened so as not to be overtly visible or cause light halos
- j) Any recorded music played will be reduced in volume after 20:00 to ensure it should not disturb our closest neighbours.
- k) Customers will not be permitted to leave the licensed premises with bottles or glasses and adequate waste receptacles for use by customers will be provided within club grounds.
- l) During the playing of polo all children will be kept more than 10 meters from the pitch. The umpires and 3rd man umpires will call a halt to play if children are seen close to the pitch in the out of bounds area.
- m) Silver leys polo is a family oriented club so the management of rowdy behaviour will be carefully monitored and managed including the use of crude language.
- n) The licensee and staff will ask persons who appear to be under the age of 25 for photographic ID such as proof of age cards, the Connexions Card and Citizen Card, photographic driving license or passport, an official identity card issued by HM Forces or by an EU country, bearing the photograph and date of birth of bearer.
- o) All staff will be trained for underage sales prevention regularly.
- p) A register of refused sales shall be kept and maintained on the premises.

3.5 During the 28 day statutory public consultation period the applicant varied his application in consultation with the Environmental Health to include the following additional steps to promote the licensing objectives:

1. *A written record of all refused sales shall be kept on the premises. The record shall be made available to Police and/or local authority immediately upon request and shall be kept for a least one year from the date of last entry.*
2. *The Premises Licence Holder to ensure that all management and staff are fully trained and briefed on the four licensing objectives and "Challenge 25". This will need to be documented in such a way it can be given to an officer upon request.*
3. *An incident book shall be maintained to record any activity of a violent, criminal or anti-social nature and be available for inspection at all reasonable times by an authorised officer of relevant responsible authority, it should record the following details:*
  - *Time and date and nature of the incident,*
  - *People involved*
  - *Action taken*
  - *Details of the person responsible for the management of the premises at the time of the incident.*
4. *Polycarbonates to be used in the outside areas.*
5. *The age verification policy operated at the premises shall be "Challenge 25". This means that whilst alcohol may be sold to persons aged 18 years or over, any person who appears under 25 years of age shall be required to provide proof of age using an acceptable form of ID. Notices advertising that the premises operate a "Challenge 25" scheme shall be displayed in a clear and prominent position at the premises*

*entrance(s)/and inside at the premises serving area. The only forms of ID that may be accepted shall be a proof of age card bearing the PASS hologram logo:*

- *Passport*
- *UK photo driving licence; or*
- *Military Card ID*

6. *At least 3 months in advance of any events with licensable activities for more than 499 people, the event organiser will:*

- Notify Police Licensing and the Licensing Authority and an application be made to the Safety Advisory Group.*
- Complete an Event Management Plan and Security Plan and submit these to the Responsible Authorities.*

3.6 During the 28 day statutory public consultation period two valid objections were received from residents acting as an interested parties against the application. These representations are attached as **Appendix 'B'**.

3.7 The main concern of the Interested Parties is noise from the Polo Club after every match from the playing of loud music and drinking. With one Interested Party also being concerned that as there is no public transport or pavements for people to walk along, the granting of a premise licence would cause an increase in drink driving from the location. The representation engages the prevention of public nuisance, prevention of crime and disorder and public safety licensing objectives.

3.8 A plan of the area in which the premises is located is attached as **Appendix 'C'**. This can be used to illustrate the location of the premises in relation to residents and other businesses.

## **Policy and Guidance**

3.9 Section 4 of the East Herts Statement of Licensing Policy

(herein 'the Policy') details definitions of premises and location and operation of premises (differentiating between Town Centre locations and other areas). Under this section of the Policy the operation under which the application best fits would be defined as 'other entertainment venue'.

3.10 The proposed premises are not in a Town Centre location so is classed as being in 'other areas'.

3.11 The table at 4.3 of the Policy details this authority's approach to hours for licensed premises when it has received relevant representations to an application. Notwithstanding that each application is considered on its own merits the following hours would normally be granted to an 'other entertainment venue':

*May be limited to midnight*

3.12 Section 7.0 of the Policy contains information on how the Licensing Authority considers applications under the prevention of crime and disorder licensing objective. Paragraph 7.2 states "The Licensing Authority will expect the applicant to demonstrate how they will prevent disorderly conduct, prevent sale of alcohol to a person who is drunk, and prevent the obtaining of alcohol for a person who is drunk on the licensed premises, and how the licence holder will exercise these duties so as to prevent or reduce the risk of anti-social behaviour by customers occurring elsewhere after they have left the premises."

3.13 Section 9.0 of the East Herts Statement of Licensing Policy relates to the prevention of public nuisance. Specifically section 9.3 of the policy states:

*The Licensing Authority will expect applicants to demonstrate they have considered:*

- 1) *the proximity of residential accommodation;*
- 2) *the type of use proposed, and the likely numbers of*

*customers;*

- 3) proposed hours of operation and the frequency of activity;*
- 4) the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. This may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;*
- 5) the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance between 10 p.m. and 7 a.m. than at other times of the day;*
- 6) the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;*
- 7) the steps taken or proposed to be taken by the applicant to help ensure patrons and staff leave the premises quietly;*
- 8) the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;*
- 9) the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;*
- 10) the level of likely disturbance from associated vehicle movements;*
- 11) the use of smoking shelters, gardens and other open-air areas;*
- 12) the location of delivery and collection areas and delivery/collection times;*
- 13) the appropriate placing of external lighting, including security lighting;*
- 14) refuse storage and litter (including fly posters and illegal placards);*
- 15) the history of nuisance complaints against the premises, particularly where statutory notices have been served on the present licensees;*
- 16) the applicant's past success in controlling anti-social*



- behaviour and preventing nuisance;*
- 17) *odour nuisance, e.g. cooking smells;*
  - 18) *any other relevant activity likely to give rise to nuisance;*
  - 19) *any representations made by the Police, or other relevant agency or representative;*

*This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits."*

3.14 Paragraph 9.37 and 9.38 of the government's revised Guidance issued under section 182 of the Licensing Act 2003 (herein 'the Guidance') states:

*As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.*

*In determining the application with a view to promoting the licensing objectives the licensing authority must give appropriate weight to:*

- *the steps that are appropriate to promote the licensing objectives;*
- *the representations (including supporting information) presented by all the parties;*
- *this Guidance;*
- *its own statement of licensing policy.*

3.15 Paragraphs 9.42 – 9.44 of the Guidance deal with how to determine actions that are appropriate for the promotion of

the licensing objectives.

- 3.16 If the Sub Committee are minded to impose conditions to mitigate concerns regarding the undermining of the licensing objectives then Chapter 10 of the Guidance deals with conditions attached to premises licences. Paragraphs 10.8-10.10, 10.13-10.15 would be particularly relevant.
- 3.17 Chapter 11 of the Guidance deals with reviews and paragraphs 11.16 – 11.23 are particularly relevant as it deals with the powers the licensing authority has to determine the application.

### **Officer observations**

- 3.18 The Interested Parties have raised concerns regarding the noise from the club after every match often going on to the small hours of the morning. It should be clear that the granting of the licence would mean that at 22:00 Sunday –Friday and 23:00 on Saturday the licensable activities would need to finish unless another authorisation such as a Temporary Events Notice had been used.
- 3.19 With regards to the concerns over drink driving it should be noted that as stated previously the Police have been consulted on the application and have not made any objections on the prevention of crime and disorder.
- 3.20 If the Sub-Committee are minded to grant this application then it is recommended that the period for supply of alcohol for consumption on the premises is reduced by 20 minutes to allow for drinking up time in order to support the prevention of crime and disorder licensing objective.
- 3.21 The applicant has proposed a condition that “Any recorded music played will be reduced in volume after 20:00 to ensure it should not disturb our closest neighbours.” It should be noted

that this is therefore an undertaking as this could not be a condition on the licence due to the exemptions from the Live Music Act 2012 where any condition regarding music would not be enforceable during the hours of 08:00 and 23:00 or during the hours licenced for the supply of alcohol on the premises if this is before these times.

- 3.22 As stated in the Guidance the authority's decision should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 3.23 If the Sub-Committee believe that the application would not undermine any of the licensing objectives then the application should be granted as requested.
- 3.24 The Sub-Committee should consider if they believe the applicant has provided evidence that the licence if granted would promote and not undermine the licensing objectives. This evidence should be balanced against the evidence given by those making representations that the licensing objectives would be undermined.
- 3.25 If the Sub-Committee believe that there is evidence that the granting of the licence would not promote the licensing objectives then it is within their remit to take the action they believe is appropriate and proportionate to address their concerns. Members can attach conditions or take any steps they believe appropriate to promote the licensing objectives including: limiting the days, limiting the hours or even refusing the application in its entirety.
- 3.26 Put in its simplest terms, what are the minimum measures that can be put in place to address the concerns? Refusal of the application should be the last option considered.
- 3.27 If additional conditions are considered, the Sub-Committee

should decide whether these steps would in fact address their concerns if the decision was made to grant the hours requested.

3.28 The Sub-Committee may wish to seek the opinion of the applicant on any proposed conditions to clarify which are agreeable so that the hearing can focus on those which are disputed.

3.29 For conditions to be enforceable they need to be clear, unambiguous and free from subjective terms. If a condition cannot be enforced then it should not be placed on any granted licence.

#### **4.0 Options**

4.1 The actions open to the Licensing Sub-Committee are:

- grant the application if they feel the application would promote and not undermine the licensing objectives; or
- grant the application as sought but at the same time impose additional conditions or amend the times for the supply of alcohol; or
- if members believe that there is evidence that shows that there are no steps that can be taken to ensure that the application sought would promote the licensing objectives then the application should be refused.

4.2 When the Licensing Sub-Committee gives its decision to those in attendance it should be made clear to all parties how much weight has been attached to each submission and why and what evidence the Sub-Committee have relied upon when reaching their decision.

#### **5.0 Risks**

5.1 A decision on the application must be made and any decision made can be appealed at the Magistrate's Court. Therefore the

Licensing Sub-Committee should ensure that when giving their decision on the application they give clear reasons on how and why they have made their decision. In doing so, the council's ability to defend its decision is strengthened and the risk of its decision being over-turned on appeal is lessened, although, of course, this risk can never be entirely removed.

## **6.0 Implications/Consultations**

6.1 There has been a statutory 28 day public consultation.

### **Community Safety**

The report details the four licensing objectives, these objectives are detailed in paragraph 2.3, therefore Community Safety will be considered when determining the application.

### **Data Protection**

Where the appendices originally contained personal data this has been redacted.

### **Equalities**

Consideration has made to the Equality Act 2010 and the Public Sector Equality Duty in this report and will be considered during the Licensing Sub-Committee hearing.

### **Environmental Sustainability**

No

### **Financial**

There will be a cost to the authority in holding the Licensing Sub-Committee hearing, this will be covered by the existing budget.

There would be a cost if the decision of the Licensing Sub-Committee is appealed to the Magistrates Court and the authority chooses to defend that appeal.

### **Health and Safety**

No

## **Human Resources**

No

## **Human Rights**

As with all applications and Council functions, the Human Rights Act 1998 has been considered in this report and will be considered during the Licensing Sub-Committee hearing.

## **Legal**

All statutory requirements have been considered in preparing this report.

## **Specific Wards**

Yes – Little Hadham

### **7.0 Background papers, appendices and other relevant material**

- 7.1 Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) -  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705327/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705327/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)
- 7.2 East Herts Statement of Licensing Policy 2016 –  
[https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Statement\\_of\\_Licensing\\_Policy.pdf](https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Statement_of_Licensing_Policy.pdf)
- 7.3 Night Time Economy (NTE) Position Statement –  
[https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Night\\_Time\\_Economy\\_NTE\\_Position\\_Statement.pdf](https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Night_Time_Economy_NTE_Position_Statement.pdf)
- 7.4 Appendix 'A' – Application for a New Premise Licence, including plans of the premises.

7.5 Appendix 'B' – Representations against the application.

7.6 Appendix 'C' – Map showing location of the premises.

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