

**Agenda Item No: 1 - Summary of Report**

**Licence Reference 16/01020/LAPRE**

**Report To: LICENSING SUB – COMMITTEE  
(UNDER THE LICENSING ACT 2003)**

**Date: 17 MAY 2016**

**Report Title: PARTS OF MOTE PARK, MAIDSTONE**

**Application for: A premises licence under the Licensing Act 2003**

**Report Author: Lorraine Neale**

- Summary:**
1. The Applicant – Spirit Of Rock Ltd for Ramblin Man Fair
  2. Type of authorisation applied for: A premises licence under the Licensing Act 2003 for the period Friday 22 to Monday 25 July 2016..
  3. Proposed Licensable Activities and hours: ( Appendix A)

			Main Arena	Glamping Area
B	Films (Indoors & Outdoors)	Fri Sat Sun	----- 12:00 – 23:00 12:00 – 22:30	12:00 – 01:00 22:00 – 01:00 22:00 – 01:00
E	Live Music (Indoors & Outdoors)	Fri Sat Sun	----- 11:00 – 23:00 11:00 – 22:30	12:00 – 01:00 22:00 – 01:00 22:00 – 01:00
F	Recorded Music (Indoors & Outdoors)	Fri Sat Sun	----- 11:00 – 23:00 11:00 – 22:30	12:00 – 01:00 22:00 – 01:00 22:00 – 01:00
H	anything of a similar description to that falling within (e), (f) or (g) (Indoors)	Fri Sat Sun	----- 11:00 – 23:00 11:00 – 22:30	----- ----- -----
I	Late Night Refreshment (Indoors & Outdoors)	Fri Sat Sun	----- 23:00 – 00:00 23:00 – 00:00	23:00 – 01:00 23:00 – 01:00 23:00 – 01:00
J	Supply of Alcohol On premises only	Fri Sat Sun	----- 11:00 – 23:00 11:00 – 22:30	12:00 – 01:00 22:00 – 01:00 22:00 – 01:00
L	Opening Hours	Fri Sat Sun	----- 11:00 – 00:00 11:00 – 00:00	----- ----- -----

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**Affected Wards:** High Street – East & Shepway North  
The park is also bounded by the wards of Boxley, Detling & Thurnham,  
Bearsted & Downswood & Otham

**Recommendations:** The Committee is asked to determine the application and decide whether to grant the premises licence.

**Policy Overview:** The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

**Financial Implications:** Costs associated with processing the application are taken from licensing fee income.

**Other Material Implications:** **HUMAN RIGHTS:** In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**other persons**” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

**LEGAL:** Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

**Background Papers:** Licensing Act 2003  
DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended  
Maidstone Borough Council Statement of Licensing Policy

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## **Agenda Item No. 1**

**Report Title: PARTS OF MOTE PARK, MAIDSTONE**

**Application to:** For a premises licence under the Licensing Act 2003. (Appendix A).

### **Purpose of the Report**

The report advises Members of an application received on the 18.04.2016 for a Premises Licence to be granted under the Licensing Act 2003, made by Spirit Of Rock Ltd for Ramblin Man Fair , in respect of the premises Parts of Mote Park, Maidstone, (Appendix B) in respect of which 4 objections have been received from three other parties (Appendix C).

### **Issue to be Decided**

1. Members are asked to determine whether to:
  - 1) grant as applied for
  - 2) grant with conditions
  - 3) exclude any licensable activity
  - 4) reject the DPS
  - 5) or reject the application

### **Background**

- 2 The relevant sections are Part 3 S16 -24 of The Licensing Act 2003 and section 4 of The Licensing Act 2003 in particular the Licensing Objectives:
  - The prevention of crime and disorder;
  - Public Safety
  - The prevention of public nuisance; and
  - The protection of children from harm
3. The application has been correctly advertised in the local press and notices displayed at the premises for the required period.
4. There are no representations received from responsible authorities.
5. There are 4 representations from 3 other parties.
6. The table below illustrates the relevant representations which have been received

<b>Responsible Authority /Interested Party</b>	<b>Licensing Objective</b>	<b>Associated Documents</b>	<b>Appendix</b>
Mr Brendan McGowan	Crime and Disorder Public Nuisance Public Safety	E-Mail 29/04/16	C
Mr David Peters (2 letters were received and they have both been attached)	Public Nuisance Public Safety	Letters 13/05/16	C
David & Barbara Wallace	Public Nuisance	Letter 13/05/16	C

The objections are that the granting of a premise licence would lead to an increased disruption to local residents. Park users should not be disadvantaged by the event which realistically takes over the area for 2 weeks and which inconveniences regular park users and dog walkers.

The event causes noise nuisance to residents in the nearby vicinity and to households some distance away, especially the glamping area which continues until 01;00. There is a lack of Police presence in the area whilst the event is on and no one to control the drunk and rowdy behaviour that occurs and the people who are causing disturbance. Vehicles travelling between site areas in the park.

The event causes increased litter issues for the park, local residents and the wider local area. The instances of broken glass, used drug items and vomit being more obvious and . increased when this event is on.

The event is intrusive to local residents who are expected to tolerate the music over a 3 day period and is an infringement of their Human Rights, specifically Article 8.

- 9. Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is appropriate to do so to promote the licensing objectives.;**
- 10. The Operating Schedule submitted by the Applicant has addressed the licensing objectives in the following manner:**

**a) General – all four licensing objectives:**

1. Fence the event off from non-ticket holders.
2. Design a safe site for guests.
3. Put in place comprehensive security and stewarding operations.
4. Ensure we have trained bar staff.
5. Have on site medical facilities.
6. Put in place a detailed traffic management plan.
7. Put in place a noise management system.
8. Operate the event with a clear structure and experienced team..

**b) The prevention of crime and disorder:**

1. Put in place comprehensive security and stewarding operations.
2. Put in place a crowd management plan.
3. Ensure we have trained bar staff

**c) Public Safety:**

For non attendees we will fence off the premises with security and an ID system in place at any entry point so they cannot access.

For attendees we will:

1. Design and risk assess the site for safe use.
2. Put in a security and stewarding system.
3. Operate the event with a clear structure and experienced team.
4. Provide on site medical facilities.
5. Ensure safe, free water is available.

**d) The prevention of public nuisance:**

1. Leaflet the local residents in advance with event info and an on the day telephone number for any issues.
2. Put in place a noise management system.
3. Clean the site every morning and through the day.
4. Put in place a traffic management plan.
5. Manage the medium sized campsites and make sure noise is kept to a minimum post 11 pm.

**e) The Protection of children from harm:**

There is no age restriction at the festival. Tickets are free to under-12's.  
 16's and under must be accompanied by a parent or guardian.  
 Security will be briefed to watch out for children in distress or alone.  
 We will have a lost/found child system in place.  
 We will design the site with children's size in mind.  
 We will have free and safe water on site.

**11. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003;****

**Chapters 8 & 9 Premises Licences & Determining Applications**

**Chapter 10 Conditions**

**Relevant policy statements contained in the Licensing Authority's Statement of Licensing Policy:**

Relevant policy statements contained in **the Licensing Authority's Statement of Licensing Policy:**

**17.9 – 17.15 Prevention of Crime and Disorder**

**17.16 – 18 Promotion Public Safety**

**17.19 – 17.22 Prevention of Public Nuisance**

**The Prevention of Crime and Disorder.**

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage "vertical drinking"
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) 'wind down' or 'drinking up' period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

### **Public Safety**

The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.

Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy

should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol
- (ii) Nightclubs
- (iii) Cinemas
- (iv) Theatres
- (v) Other premises where regulated entertainment is likely to attract a large number of people.
- (vi) Where conditions of occupancy have arisen due to representations received.

### **Prevention of Public Nuisance**

The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

## **12. Options**

Legal options open to members -

- 1) Grant the licence subject to such conditions as are consistent with the operating schedule accompanying the application.
- 2) grant the licence with MODIFIED conditions.
- 3) exclude any licensable activity applied for
- 4) refuse to specify a person in the licence as designated premises supervisor
- 5) REJECT the whole or part of the application

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough

Section 17 of the Crime and Disorder Act 1988 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can prevent, crime and disorder in its area".

## **11. Implications Assessment**

The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is increased.

## **12. Human Rights**

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to Fair Hearing
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices

## **13. Conclusion**

Members must ensure that the application is considered on its merits, as well as against the

relevant guidance, policy and statutory framework.

#### 14. List of Appendices

- Appendix A Application Form
- Appendix B Plan of Premises
- Appendix C Other parties representation
- Appendix D Plan of area
- Appendix E Human Rights Articles
- Appendix F Order of Proceedings

#### 15. Appeals

**The applicant or any other person(objector) may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an Adverse Costs Order should they bring an appeal.**

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