

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

**Licence Reference** 18/02647/LAPRE

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

**Date:** 13<sup>TH</sup> SEPTEMBER 2018

**Report Title:** BATTEL HALL, BURBERRY LANE, LEEDS, KENT, ME17 1RH

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

**Report Author:** Lorraine Neale

- Summary:**
1. The Applicant – Leeds Castle Enterprise
  2. Type of authorisation applied for: A premises licence under the Licensing Act 2003.
  3. Proposed Licensable Activities and hours:

			Main Event
E	Live Music	Fri & Sat	14:00 - 24:00
F	Recorded Music	Fri & Sat	14:00 - 24:00
M	Supply of Alcohol	Mon – Thurs Fri & Sat Sun	12:00 - 23:00 12:00 - 00:00 12:00 - 22:00
O	Opening Hours	Mon – Thurs Fri & Sat Sun	12:00 - 23:00 12:00 - 00:00 12:00 - 22:00

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**Affected Wards:** LEEDS

**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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**Application:** For a premises licence under the Licensing Act 2003. (Appendix 1).

### **Purpose of the Report**

The report advises Members of an application for a Premises Licence to be granted under the Licensing Act 2003, made by Leeds Castle Enterprise, in respect of the premises Battel Hall, Burberry Lane, Leeds, Kent, ME17 1RH (Appendix 2 ) in respect of which 1 objection has been received from other parties (Appendix 3).

### **Issue to be Decided**

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.

- 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 is 1 representation from other parties.
6. The table below illustrates the relevant representations which have been received

There appear to be concerns around the levels of noise that will arise from the premises and the affect that any licence granted would potentially cause to noise sensitive buildings in close proximity and the effect on those residents, including sleep deprivation for young children..

7. **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.;**
8. **The Operating Schedule submitted by the Applicant has addressed the licensing objectives in the following manner:**

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

Battel Hall belongs to Leeds Castle and will be managed and run by the Castle's experienced function department. Leeds Castle Enterprise (Leeds Castle's commercial arm) has been running functions and overnight accommodation since 1974.

We have very high standards in safety, with an accident to visitor number percentage of 0.017% (as at March 2018 audit)

Due to the historic nature of our buildings and their contents our policy is to limit alcohol consumption, it helps our guests to respect the surroundings and accidental damage is less likely to happen.

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

Bookings and functions will be private with invited attendees, a guest list is required for each function.

<b>Responsible Authority /Other Party</b>	<b>Licensing Objective</b>	<b>Associated Documents</b>	<b>Appendix</b>
Mr S Bernini	Public Nuisance	e-mail	C

Function Manager and Supervisors will be Personal Licence holders and on duty at functions.

Security cameras are in place with imaging back to Leeds Castle control room, in-house roving security will patrol the venue as part of their watch.

Our client terms and condition does not allow anyone to bring into the function their own drinks, this enables us to have more accurate knowledge of how much a guest has consumed and to manage the situation..

### **c) Public Safety:**

Function staff are trained in fire safety, correct use of fire equipment and emergency evacuation.

Function Managers and supervisors are qualified first aiders.

Clients must undertake to use Leeds Castle Hospitality approved suppliers. The list of suppliers will be reviewed on an ongoing basis and is non-negotiable unless there is a specific area of expertise that is not covered.

All suppliers will sign a Supplier Agreement and undergo an auditing procedure. For marquee events where the catering is not provided by the in-house team the contract caterers will require a full Food Audit from our approved contractor, together with references and appropriate levels of insurance. This is generally a minimum of £5m public liability.

Only catering suppliers on the Leeds Castle approved list are permitted to work at the venue.

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

Stewarding staff who will manage the quiet ingress and egress of guests from the venue and car park.

Car park signage to remind guests to be considerate of neighbours and to depart quietly.

Leeds Castle will inform local residents of functions via the parish council once they are confirmed.

The Function Manager will monitor and control the noise level using a sound meter and/or a noise level warning indicator. This will be written down during the evening.

Clients must undertake to use Leeds Castles approved entertainment suppliers, who are respectful of our terms and conditions and work with us to keep within the boundaries set for noise levels and finish times for music.

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

We operate child friendly venues and the holidays and celebrations which take place across our venues, including Battel Hall, are family orientated with children attending.

Our terms and conditions state that children must be accompanied by an adult and cannot be left in rooms on their own.

We operate a challenge 25 policy on our bars and functions.

Duty Manager on site during function, poured drinks are not left unattended for guests to help themselves to.

Empty glasses are collected regularly both inside and outside to minimise the possibility of incidents broken glass.

The applicant on receiving the objection responded with an offer which was forwarded by the licensing department to Mr Bernini on 31<sup>st</sup> August 2018 Mr Bernini requested that the noise management plan be shared with him, which he would review and respond to (Appendix 4).

On 5<sup>th</sup> September 2018 the applicant responded and provided the noise management plan (Appendix 5)

On 10<sup>th</sup> September 2018 Mr Bernini provided his response after reviewing the noise management plan (Appendix 6), he felt that his concerns raised in his original e-mail had not been fully addressed by the noise management plan.

On 11<sup>th</sup> September 2018 the applicant further responded to the concerns and issues raised by Mr Bernini in more depth (Appendix 7) and the venue's management plan (Appendix 8) and Noise Survey Report (Appendix 9 ) were also provided.

There has been no further contact from Mr Bernini in response to the further information provided on 11th September 2018.

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

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

**Chapter 10 Conditions NB: There is Home Office Supporting Guidance on Pools of Conditions but this is not statutory guidance.**

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

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**17.19 – 17.22 Prevention of Public Nuisance**

**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.

## **10. Options**

Legal options open to members -

1. Grant the licence subject to conditions as are consistent with the operating schedule accompanying the application.
2. Grant the licence with modified conditions
3. Exclude a licensable activity
4. Refuse to specify the DPS
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 1 Application Form
- Appendix 2 Plan of Premises
- Appendix 3 Other parties representation
- Appendix 4 - 7 Correspondence between applicant and other party
- Appendix 8 Management plan
- Appendix 9 Noise survey report
- Appendix 10 Plan of area
- Appendix 11 Human Rights Articles
- Appendix 12 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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