

Agenda Item No: 1 - Summary of Report

Licence Reference: 24/03540/LACPC

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

Date: 18TH NOVEMBER 2024

Report Title: Allington Community Centre

Application for: To vary a club premises certificate under the Licensing Act 2003

Report Author: Lorraine Neale

- Summary:**
1. The Applicant – Allington Community Association
 2. Type of authorisation applied for: To vary a club premises certificate under the Licensing Act 2003.
 3. Proposed Licensable Activities and hours: (Appendix 1)

		Current Hours		Hours: New Application	
A)	Plays (Indoors)	Sat	14:00-23:00	No Change	No Change
C)	Indoor Sporting Events	Mon - Wed Thurs - Sat Sun	12:00-23:30 12:00-00:00 12:00-23:00	No Change	No Change
E)	Live Music (Indoors)	Fri & Sat Sun	12:00-00:00 12:00-23:00	No Change	No Change
F)	Recorded Music (Indoors)	Mon - Wed Thurs - Sat Sun	12:00-23:30 12:00-00:00 12:00-23:00	No Change	No Change
H)	Anything of a similar description to that falling within (e), (f) or (g) (Indoors & Outdoors)	Mon - Wed Thurs - Sat Sun	12:00-23:30 12:00-00:00 12:00-23:00	No Change	No Change
L)	Supply of alcohol (On the premises)	Mon - Sat Sun	12:00-00:00 12:00-11:00	No Change	No Change
M)	Opening Hours	Mon - Fri Sat Sun	09:00-00:00 12:00-00:00 12:00-23:00	No Change	No Change

The application does not seek to amend any of the licensable activities or the current hours, the application is to remove a condition from Annex 3 – Conditions consistent with the Operating Schedule, namely condition 7 “All doors and windows shall be kept closed when live or recorded music or karaoke or amplified sound or voice is taking place.”

The Live music Act 2012 removes the licensing requirements for live music and recorded music where: -

- **There is a premises licence or club premises certificate in place permitting ‘on sales’**
- **The premises are open for the sale or supply of alcohol for consumption on the premises.**

- **Live or recorded music is taking place between 8am and 11pm**
- **If the music is amplified live music or recorded music (e.g. DJs or a disco for example), the audience consists of no more than 500 people.**

The Act also disapplies any live music- and recorded music-related conditions which appear on a club premises certificate, providing the above criteria are satisfied.

In essence any noise condition would not be applicable to any music licensable activity before 11pm.

However, if the live music- and recorded music-related conditions were imposed as part of a club premise certificate review then they would apply and need to be complied with, that is not the situation in this case.

Affected Wards: Allington

Recommendations: The Committee is asked to determine the application and decide whether to grant the variation sought to the club premises certificate.

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

Contacts: Mrs Lorraine Neale at: lorryneale@maidstone.gov.uk – tel: 01622 602528

Agenda Item No. 1

Report Title: Allington Community Centre

Application to: To vary a club premises certificate under the Licensing Act 2003 (Appendix A).

Purpose of the Report

The report advises Members of an application for a club premises certificate to be varied under the Licensing Act 2003, made by Allington Community Association, in respect of the premises Allington Community Centre, Castle Road, Maidstone, Kent. ME16 0PZ, (Appendix 1) in respect of which 24 responses have been received from other parties, comprising 9 objections and 15 in support (Appendix 3).

Issue to be Decided

Members are asked to determine whether to:

Grant as applied for

Grant with conditions

or Reject the application

Background

- 1 The relevant sections are Part 2 S4 Licensing Objectives and Part 4 S84 -85 of The Licensing Act 2003 and chapter 6 of the Revised Guidance issued under Section 182 of Licensing Act 2003.
 - The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance; and
 - The protection of children from harm
2. The application has been correctly advertised in the local press and notices displayed at the premises for the required period.
3. There are no representations received from responsible authorities.
4. There are 24 representations from other parties.
5. The table below illustrates the relevant representations which have been received.

Responsible Authority /Interested Party	Licensing Objective	Associated Documents	Appendix
Aranghan Lingham	Public Nuisance/Support	E-Mail	3
Daniel Alexander	Public Nuisance	E-Mail	3
Les Cook	Public Nuisance	E-Mail	3
Mrs Donna Trevellick. 14 & 16/10/24	Public Nuisance	E-Mail	3
Mr John Walker.	Public Nuisance	E-Mail	3
Joseph Saunderson	Support	E-Mail	3
Lee Bodkin	Support	E-Mail	3
Linda Jamieson	Support	E-Mail	3
Lynne Hughes	Support	E-Mail	3
Keith Piles	Support	E-Mail	3
Raquel Souto.	Support	E-Mail	3
Keith Gobell	Support	E-Mail	3
Jackie Harvey	Support	E-Mail	3
Laura Harris	Support	E-Mail	3
Katherine Hobday-conn	Support	E-Mail	3
Brian Baring	Support	E-Mail	3
Corin Bennett	Support	E-Mail	3
Stuart Jeffery (Cllr)	Public nuisance	E-Mail	3
Andrea Jones	Support	E-Mail	3
Daniel Brown	Support	E-Mail	3
Leigh Jones	Support	E-Mail	3
Xaviera Bodkin	Support	E-Mail	3
Gavin and Hayley Skinner	Public Nuisance	E-Mail	3
Sharon Edwards	Public nuisance	E-Mail	3

6. The current hours are as per the club premises certificate attached at appendix 4 and set out at 3 of the summary above. The application does not seek to amend any of the licensable activities or the current hours, the application is to remove a condition from Annex 3 – Conditions consistent with the Operating Schedule, namely condition 7 “All doors and windows shall be kept closed when live or recorded music or karaoke or amplified sound or voice is taking place.” The club has had a club premises certificate issued under the Licensing Act 2003 since November 2005.
7. **Members are advised that applications cannot be refused in whole or in part, or conditions attached to the club premises certificate 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:

The association has a code of conduct on display at all times for members and their guests

b) The prevention of crime and disorder:

A notice is displayed at the entrance to the premises stating CCTV in operation.

Our capacity limit is 140 within our event hall to prevent over crowding to limit the risk of disorder

c) Public Safety:

A code of conduct is in place and on display to all members and their guests.

All fire exit doors are accessible without a key

d) The prevention of public nuisance:

Noise or vibration from the premises will be maintained at a level that will not be audible to local dwellings

Clear notices are in place at exits requesting that members and their guests respect the local community when leaving the premises

e) The Protection of children from harm:

All children under the age of 14 are to be accompanied by an adult Proof of age is in operation in respect of the sale of alcohol

There are 2 DSL trained members on the associations committee

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

Chapters 6 9 and 10 Club Premises Certificates, Determining Applications and 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:**

17.19 – 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 -

- (a) to modify the conditions of the certificate;
- (b) to 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.

List of Appendices

- Appendix 1 Application Form
- Appendix 2 Plan of Premises
- Appendix 3 Representations –Other parties
- Appendix 4 Current Club Premises Certificate
- Appendix 5 Plan of area
- Appendix 6 Human Rights Articles
- Appendix 7 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.

Contact: Email:	Senior Licensing Officer lorryneale@maidstone.gov.uk
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