

Agenda Item No: 1 - Summary of Report

Licence Reference 13/01426/LAPRE

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

Date: 17TH JUNE 2013

**Report Title: VALLEY PARK SCHOOL
HUNTSMAN LANE
MAIDSTONE
KENT
ME14 5DJ**

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

Report Author: Lorraine Neale

Summary:

1. The Applicants – Mr Victor Ashdown
2. Type of authorisation applied for: a premises licence under the Licensing Act 2003, S17.

3. Proposed Licensable Activities and hours:

A) Plays -Indoors	Monday to Sunday	09.00 to 23.00
B) Films - Indoors	Monday to Sunday	09.00 to 23.00
C) Indoor Sporting Events	Monday to Sunday	09.00 to 23.00
E) Live Music - Indoors	Monday to Sunday	09.00 to 23.00
F) Recorded Music - Indoors	Monday to Sunday	09.00 to 23.00
G) Performances of dance - Indoors	Monday to Sunday	09.00 to 23.00
H) Anything Similar to E),F) & G) - Indoors	Monday to Sunday	09.00 to 23.00
I) Provision of facilities for making music	Monday to Sunday	09.00 to 23.00
J) Provision of facilities for dancing	Monday to Sunday	09.00 to 23.00
K) Provision of facilities for entertainment similar to I) & J)	Monday to Sunday	09.00 to 23.00
M) Supply of Alcohol – on the premises	Monday to Sunday	12.00 to 23.00
O) Opening Hours	Monday to Sunday	08.30 to 23.00

Members should be aware that since 1, October 2012, as a result of the Live Music Act 2012, I – K above are no longer licensable activities and do not require a licence. Also, from 27, June 2013, plays for an audience of up to 500, indoor sporting events for an audience of up to 1000 and performances of dance for up to 500 between the hours applied for are not licensable activities following The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013. For premises with an alcohol licence,(when open for that use), there are also ,currently, amendments made by the Live Music Act 2012 which make amplified live music for no more than 200 during the hours applied for non licensable,(although conditions may be imposed on the use at a review). Unamplified live music for the hours applied for does not require a licence, (subject to the right to impose conditions on live music following a review of a premises licence for a premises

authorised to sell alcohol. Indicated by Government as amendments but not yet in force are exemptions which would allow all regulated entertainment, of any audience size, between 08:00 and 23:00 to be held by schools on their own premises and for audiences of up to 500 on premises owned by a school.

Affected Wards: High Street

Recommendations: **The Committee is asked to determine the application and decide whether to grant a 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

Contacts: Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602028

Agenda Item No. 1

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Application for: A premises licence to be granted under the Licensing Act 2003

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 Mr Victor Ashdown, in respect of the premises Valley Park School, Huntsman Lane, Maidstone, Kent, ME14 5DJ in respect of which 1 representation (Appendix C) has been received from another person . There have been no representations received from responsible authorities.

Issue to be Decided

1. Members are asked to determine whether to i) grant subject to conditions consistent with the operating schedule modified to such extent as considered appropriate for the promotion of the licensing objectives and any mandatory condition, ii) grant excluding any of the licensable activities applied for, iii) grant refusing to specify a premises supervisor, or iv) reject the application.

Background

2. The relevant sections are Part 3 ss 16-19, 23 & 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 a notice displayed on the premises for the required period.
4. 1 representation was received from an other person.
5. The table below illustrates the relevant representations which have been received

Responsible Authority /Interested Party	Licensing Objective	Associated Documents	Appendix
Mrs Lynne Pearce	Public Nuisance Children from Harm	Letter	C

6. **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.;**

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

a) General – all four licensing objectives

ALL OF THE EVENTS WILL BE ORGANISED AND RUN AT THE VERY HIGH STANDARD THAT WE DEMAND, COMMENSURATE WITH THE SCHOOLS EXCELLENT REPUTATION AS AN EDUCATIONAL ESTABLISHMENT. THE PLANNED ACTIVITIES ARE NOT PROPOSED AS AN EXTENSION TO THE SCHOOLS PROVISION, BUT PRIMARILY AS A FORMALISATION OF THE SCHOOL'S EXISTING ACTIVITIES.

b) The prevention of crime and disorder

ANY EVENTS WILL BE CLOSELY REGULATED AND IT IS EXTREMELY UNLIKELY THAT ANY UNWANTED OR DUBIOUS ACTIVITIES COULD OCCUR. MOST ARE SCHOOL RELATED AND ANY HIRERS ARE SCRUTINISED CLOSELY.

c) Public safety

THE SCHOOL HAS HIGH HEALTH & SAFETY AND ITS FIRE ARRANGEMENTS, FIRE RISK ASSESSMENT, ETC ARE KEPT UP TO DATE AND SUBMITTED TO THE FIRE OFFICER FOR SCUTINY.

d) Prevention of public nuisance

OUR INDOOR EVENTS WOULD NOT BE NOISY ENOUGH TO ANNOY OUR NEIGHBOURS AND WE DO OUR BEST TO PROVIDE ADEQUATE PARKING ON OUR SITE FOR USE BY VISITORS TO EVENTS.

e) The protection of children from harm

THE SCHOOL HAS AN EXTREMELY HIGH LEVEL OF CHILD PROTECTION IN PLACE.

8. **Relevant sections of The Guidance issued under section 182 of The Licensing Act 2003; Chapter 2 – Licensing Objectives.**

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:**

22. Prevention of Public Nuisance

23. Protection of Children from Harm

22. Prevention of Public Nuisance

Licensed premises can cause adverse impacts on communities through public nuisance. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from any nuisance caused by the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

The Licensing Authority will 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.

Concerns

When addressing the issue of prevention of public nuisance, the applicant should consider those factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the likelihood of public nuisance. These may include:-

- The location of the premises and their proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- The hours of operation, particularly if between 23.00 and 07.00.
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
- The design and layout of premises and in particular the presence of noise limiting features.
- The occupancy capacity of the premises.
- Last admission time.
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly.
- The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises.
- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises within the vicinity of the Premises.
- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of registered door supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents.
- The likelihood of any violence, disorder or policing problems arising if a licence were granted.
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- The siting of external lighting, including security lighting that is installed inappropriately.
- Whether the operation of the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises and any measures or proposed measures to deal with this.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

Additional Steps

The following examples of additional steps are given as examples for applicants to consider in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries.
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- The incorporation of measures for ensuring the safe and swift dispersal of patrons away from premises and events without causing nuisance or public safety concerns to local residents.
- Effective ventilation systems to prevent nuisance from odour.

N.B. Where relevant representations are received which the Licensing Sub Committee consider material particular consideration will be given to the impact on residential amenity of proposals for the provision of late night refreshment where these are either located in, or encourage people to move through, residential areas.

Chapter 23 Protection of Children from Harm

The relaxation in the Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure but the risk of harm to children remains the paramount consideration. Clearly, this relaxation places additional responsibilities upon licence holders as well as upon parents and others accompanying children.

The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives.

In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

Concerns

The applicant should consider those factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the prevention of children from harm. These may include the potential for children to:-

- purchase, acquire or consume alcohol
- be exposed to drugs, drug taking or drug dealing
- be exposed to gambling
- be exposed to activities of an adult or sexual nature
- be exposed to incidents of violence or disorder
- be exposed to environmental pollution such as noise
- be exposed to special hazards such as falls from a height

Additional Steps

The following examples of additional steps are given to assist applicants. The Licensing Authority considers them to be important matters that applicants should take account of in the preparation of their Operating Schedule, having regard to their particular type of premises and/or activities:-

- Effective and responsible management of premises.
Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- Adoption of best practice guidance (Public Places Charter).
- Limitations on the hours when children may be present, in all or parts of the premises.
- Limitations or exclusions by age when certain activities are taking place.
- Imposition of requirements for children to be accompanied by an adult.
- Acceptance of accredited 'proof of age' cards, 'new type' driving licences with photographs, passport, an official identity card issued by HM Forces or by an EU country bearing the photograph and date of birth of bearer.

N.B. In exceptional circumstances, where **appropriate**, and only where the licensing authority has received relevant representations, it may impose conditions restricting access or excluding children from premises or part of licensed premises:-

- a) at certain times of the day, or
- b) when certain licensable activities are taking place, or

- c) to which children aged under 16 years should have access only when supervised by an adult,
or
- d) to which unsupervised children under 16 will be permitted access.

Examples of premises where these conditions may be considered include those where:-

- a) There have been convictions for serving alcohol to minors or where there is some evidence of under-age drinking.
- b) There is a known association with drug taking or dealing.
- c) There is a strong element of gambling on the premises.
- d) Entertainment of an adult or sexual nature is commonly provided.
- e) There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except where under 18 discos are being held)
- f) Licensable activities are taking place during times when children under 16 may be expected to be attending compulsory full-time education.

9. **Options**

Legal options open to members -

- a) GRANT the licence subject to such conditions as are consistent with the operating schedule accompanying the application; MODIFIED to such extent as the Licensing sub-committee considers appropriate for the promotion of the licensing objectives and any relevant mandatory condition
 - b) EXCLUDE from the licence any of the licensable activities applied for.
 - c) REFUSE to specify a person in the licence as premises supervisor
 - d) REJECT the application.
10. 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	Representations (Other Persons)
Appendix D	Plan of area
Appendix E	Human Rights Articles
Appendix F	Order of Proceedings

15. Appeals

The applicant or any interested party (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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