

Agenda Item No: 1 - Summary of Report

Licence Reference 14/01923/LAPRE

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

Date: 4 AUGUST 2014

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 – Social Events Worldwide Limited
 2. Type of authorisation applied for: A premises licence under the Licensing Act 2003.
 3. Proposed Licensable Activities and hours:

A)	Plays Indoors and outdoors	Monday-Sunday	11.00 to 23.00
B)	Films Indoors and outdoors	Monday-Sunday	11.00 to 23.00
E)	Live Music Indoors and outdoors	Monday-Sunday	11.00 to 23.00
F)	Recorded Music Indoors and outdoors	Monday-Sunday	11.00 to 23.00
G)	Performance of Dance Indoors and outdoors	Monday-Sunday	11.00stet
L)	Late Night refreshment Indoors and outdoors	Monday-Sunday	23.00 to 24.00
M)	Supply of alcohol Indoors and outdoors	Monday-Sunday	11.00 to 23.00
O)	Opening Hours	Monday-Sunday	10.00 to 24.00

N.B. This licence application is to allow for the facility of a maximum of 8 events to take place within the licence area defined. These events will only take place subject to the submission of a full Event management Plan which has been approved by the Safety Advisory Group (SAG) and the agreement of Maidstone Borough Council (the Landlord)

Affected Wards:	<p>High Street – East & Shepway North</p> <p>The park is also bounded by the wards of Boxley, Detling & Thurnham, Bearsted & Downswood & Otham</p>
Recommendations:	<p>The Committee is asked to determine the application and decide whether to grant a premises licence.</p>
Policy Overview:	<p>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.</p>
Financial Implications:	<p>Costs associated with processing the application are taken from licensing fee income.</p>
Other Material Implications:	<p>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.</p> <p>LEGAL: Under the Licensing Act 2003 the Licensing Authority has a duty to exercise licensing control of relevant premises.</p>
Background Papers:	<p>Licensing Act 2003 DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended Maidstone Borough Council Statement of Licensing Policy</p>
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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 for a Premises Licence to be granted under the Licensing Act 2003, made by Social Events Worldwide Ltd, in respect of the premises Parts of Mote Park, Maidstone, (Appendix B) in respect of which 1 objection has been received from other a responsible authority (Appendix C).

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 to promote 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 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 is one representation received from a responsible authority. The table below illustrates the relevant representation which has been received.

	Responsible Authority /Interested Party	Licensing Objective	Associated Documents	Appendix
5. 6.	Environmental Enforcement	Public Nuisance	E mail	C

- 7.
5. There were no representations from other parties.

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:

8. a) General – all four licensing objectives:

A detailed site plan, Event Management Plan and accompanying risk assessments will be sent to the licensing authority and the responsible authorities for inspection and comment at least 2 months in advance of any licensed event.

The premises license holder will fully consult with the Events Safety Advisory Group and will comply with conditions agreed between the premises license holder and the Event Safety Advisory Group.

The management of the event will comply with all current legislation, and will take account of all relevant current guidance including the Event Safety Guide, BS7909:2008 and managing crowds safely.

All site structures will be in place and available for inspection by the licensing authority on the morning of the event, prior to opening time.

The DPS will satisfy himself that any members of staff dispensing alcohol are fully aware of their legal responsibilities in that respect.

An experienced Event Safety Coordinator will be contracted by the premises License Holder during the planning and duration of the event.

b) The prevention of crime and disorder:

Appropriate levels of security and stewarding will be employed in accordance with Event Management Plan, risk assessments and BS8406:2003. Details of the proposed security together with staffing numbers will be included in the event management plan.

The Premises License Holder will work closely with Kent Police to minimise any risks of crime and disorder.

A drugs policy will be drawn up in consultation with Kent Police, and will form part of the event plan.

c) Public Safety:

Appropriate levels of security and stewarding, first aid / Paramedic cover and Fire Prevention equipment and personnel will be employed in accordance with Event Management Plan and risk assessments.

A full fire risk assessment will be undertaken, and the Premises License Holder will work closely with Kent Fire & Rescue Service.

No glass bottles containing alcohol or other beverages, whether opened or sealed, shall be sold or given to customers on the premises. All drinks will be dispensed to customers in plastic or paper drinks containers.

The Event Management Plan and accompanying risk assessments will take into account the safety of the public at all times they are on site. Specific arrangements will take in to account the safety of disabled people.

Unobstructed exits for the public and access for emergency vehicles will be maintained whilst the premises are open.

Safety checks will be carried out by the Event Safety Officer prior to admitting the public.

When disabled people are present, adequate arrangements must exist to enable their safe evacuation in the event of an emergency. Staff must be aware of disabilities and react according to a pre-determined plan and disabled people on the premises must be aware of the arrangements in place to enable their safe evacuation in the event of an emergency. All escape routes and exits must be kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified.

Any use of special effects will be notified to the licensing authority at least ten days prior to the event.

Drinking water (e.g. tap water) shall be available to patrons in sufficient quantities at all times when patrons are present on the premises.

d) The prevention of public nuisance:

A noise management plan including procedures for monitoring levels during the event, the locations to be monitored, management authority for reducing sound levels and procedures for dealing with complaints will be sent to Licensing authority and the responsible authorities for inspection and comment at least 2 months in advance of the licensed event. Signs will request that departing customers respect the local area and neighbours.

External lighting will be positioned so as to not cause nuisance to neighbouring or adjoining properties.

The Licensee shall ensure that waste and refuse are removed in timely manner to a licensed waste facility.

e) The Protection of children from harm:

All entertainment offered will be suitable for admitted children.

A lost children facility will always be provided, to be staffed by CRB checked staff. Procedures for reuniting lost children with their carers will be detailed in the Event Management Plan.

A 'Challenge 25' policy will be imposed on the sale of alcohol, with no sale to those appearing under 25 and unable to provide PASS accredited ID or a passport or photo-card driver's licence when requested

Environmental Health made representation which was received on 16.07.2014 (Appendix C), requesting that the following conditions be attached to the licence.

- The Premises Licence Holder will make available a telephone number or numbers, staffed continually throughout the duration of the event, for members of the public to contact, in order for concerns relating directly to the event to be addressed immediately. This person will be located either on site or nearby i.e. in Mote Park.
- At least one contact telephone number must be provided to Maidstone Borough Council's Environmental Enforcement Team in advance of the event so that if complaints of noise

nuisance, including those outside normal office hours, are received during any stage of the event, including the installation, appropriate instructions can be given to reduce noise levels.

- Up to 2300 hours music noise levels in the 63Hz and 125Hz octave bands shall not exceed $L_{eq,15min}$ 70dB in any 15 minute period at designated monitoring points agreed with the Environmental Enforcement Team. This will apply to category A events only.
- Music noise levels after 2300 hours shall be inaudible at the designated monitoring points agreed with the Environmental Enforcement Team.
- Sound level monitoring equipment to monitor compliance with these conditions must be a IEC Type 1 Standard capable of providing a read-out in dB(A) in 60 seconds to 15 minute dB(A) L_{eq} values. Measurements to be taken in compliance with BS744-1:2003 – Description and measurement of environmental noise.
- Where requested Noise measurements data shall be submitted to the Environmental Enforcement Team within 28 days of the end of each music event. This should be provided in 15 minute periods as per the requirements in the previous conditions. This will apply to category A events only.
- Where monitoring is required (during Category A events) suitable competent person(s) will be used to monitor and produce a post event report.
- Category A events: Category A events are those outdoor events in which any noise may be discernable beyond the boundaries of the park.
- Category B events: Outdoor events where noise will not be audible inside any noise sensitive dwellings. There is no requirement for Music noise level monitoring at these events.
- The Music Noise Level (MNL), as described in section 3 of the Noise Council Code of Practice on Environmental Noise Control at Concerts, should not exceed 65dB(A) (L_{eq} 15min) at the agreed monitoring points set by the Environmental Enforcement Team.

The applicant Social Events Worldwide Ltd 's representative (Luke Bendall) has not agreed to the EHO conditions forming part of the operating schedule and therefore EHO have maintained their representation.

There is already a licence in place for Mote Park (Appendix D) which would allow the following in the requested area, its use is subject to permission being given by the Parks and Leisure Department..

A)	Plays	Monday-Saturday Sunday	09.00 to 23.00 09.00 to 22.30
B)	Films	Monday-Saturday Sunday	09.00 to 23.00 09.00 to 22.30
E)	Live Music	Monday-Saturday Sunday	09.00 to 23.00 09.00 to 22.30
F)	Recorded Music	Monday-Saturday Sunday	09.00 to 23.00 09.00 to 22.30
G)	Performance of Dance	Monday-Saturday Sunday	09.00 to 23.00 09.00 to 22.30
O)	Opening Hours	Monday-Saturday Sunday	09.00 to 23.00 09.00 to 22.30

Also, Temporary Event Notices could be given and the Live Music Act and amendments to the 2003 Licensing Act created certain exemptions and removed some activities from the requirement of a licence, those which may be relevant are that plays and dance with audiences below 500 are deregulated,.

The licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 500 persons on premises authorised by a premises licence to supply alcohol for consumption on the premises (at a time when those premises are open for the purposes of being used for the supply of alcohol for consumption on the premises, are removed

Also removed was the licensing requirement for unamplified live music taking place between 8am and 11pm, with an audience of less than 500, in any place. .

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

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

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.

11. 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

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".

12. **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.

13. **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

14. **Conclusion**

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

15. **List of Appendices**

Appendix A	Application Form
Appendix B	Plan of Premises
Appendix C	EHO representation
Appendix D	Mote Park current premise licence and premise plan
Appendix E	Plan of area (whole park and SW of lake)
Appendix F	Human Rights Articles
Appendix G	Order of Proceedings

16. **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 lorryneneale@maidstone.gov.uk
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