

Licensing and Regulatory Sub-Committee



Forest Heath
District Council

Title of Report:	Application for the Variation of a Premises Licence in respect of Mildenhall Social Club, Recreation Way, Mildenhall
Report No:	LSC/FH/18/004
Report to and date/s:	Licensing and Regulatory Sub-Committee – 11 July 2018
Portfolio holder:	Councillor Lance Stanbury Portfolio Holder for Planning and Growth Tel: 07970 947704 Email: lance.stanbury@forest-heath.gov.uk
Lead officer:	Sheila Gowans Licensing Officer Tel: 01638 719364 Email: sheila.gowans@westsuffolk.gov.uk
Purpose of report:	To determine an application for the variation of a premises licence under the Licensing Act 2003. There have been three representations, and the Sub-Committee are, therefore, required to determine the application.

Recommendation:	<p>It is recommended that, having regard to the four licensing objectives; Statement of Licensing Policy; the representation(s); any further relevant information presented on the day of the hearing; take any of the steps set out below provided they are proportionate and appropriate for the promotion of the four licensing objectives:</p> <p>(1) Approve the application; OR (2) Modify the conditions of the licence and approve the application; OR (3) Reject the whole or part of the application.</p>		
Key Decision:	<p><i>Is this a Key Decision and, if so, under which definition?</i> No, it is not a Key Decision - <input checked="" type="checkbox"/></p>		
Consultation:	See number 4 below		
Alternative option(s):	N/A – the Council is duty bound to determine the application		
Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> See number 5 below	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Any decision reached which is not in accordance with the Act and any regulations made under the Act may be considered ultra vires and could be subject to an application for Judicial Review	High	The Sub-Committee, should have regard to its statement of licensing policy and any other guidance issued under section 182 of the Licensing Act 2003, but may depart from these where reasons are given.	Low
Ward(s) affected:		Market and possibly neighbouring Great Heath	

<p>Background papers: <i>(all background papers are to be published on the website and a link included)</i></p>	<p>Licensing Act 2003 S.182 Guidance https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003</p> <p>Forest Heath Statement of Licensing Policy https://www.westsuffolk.gov.uk/Business/Regulation_and_Licensing/Licensing/Alcohol_and_entertainment/upload/Licensing-Act-Statement-of-Policy-2014-to-2019-4th-Edition.pdf</p>
<p>Documents attached:</p>	<p>Appendix 1 – Application Appendix 2 – Plan Appendix 3 – Photo of area Appendix 4 – Current Premises Licence Appendix 5 – Map of the area Appendix 6 - Representation Lyne Appendix 7 – Representation Keogh Appendix 8 – Representation Gilbert</p>

1. Key issues

- 1.1 An application has been received for the variation of a premises licence for Mildenhall Social Club, Recreation Way, Mildenhall. A copy of the application is attached as **Appendix 1**. A copy of the plan showing the outside area to be licenced is attached as **Appendix 2** and a photo of this outside area is attached as **Appendix 3**.
- 1.2 The original application has been modified and the variation now sought is to allow outside live music to be played within the following limits:
- No more than 5 occasions between June 1st and September 1st in any one year;
 - No music will be played for more than two hours continuously on any one day;
 - Outdoor live music will only occur between 15.00 and 19.00.
- 1.3 A copy of the current licence is attached as **Appendix 4** to this report and a map show the immediate area is attached as **Appendix 5**.
- 1.4 The four Licensing Objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives:
- Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Nuisance
 - Protection of Children from Harm

2. Relevant Representations

- 2.1 The application has to be advertised, both at the premises and in a local newspaper. Details are also available on the Council website. This application was advertised in the Newmarket Journal on 31 May 2018.
- 2.2 **Responsible Authority** There are no representations from any responsible authority. The hours for music were reduced following consultation.
- 2.3 **Other Parties** There have been three representations in respect of Prevention of Public Nuisance, which are attached as **Appendix 6, 7 and 8**. All objectors are aware of the reduction in hours of the live music.

3. Matters for consideration

- 3.1 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.
- 3.3 If the Licensing Authority decides that this application should be refused, it will need to show that to grant the licence would:
1. undermine the promotion of the licensing objectives; and

2. that appropriate conditions would be ineffective in preventing the problems involved.

If the Licensing Authority can not show the above, the application should be granted.

- 3.4 In making their decision, Members are advised to consider the Licensing Act 2003, the Guidance on the Act and the Council's Statement of Licensing Policy.

4. Consultation

- 4.1 The applicant is required to place a notice on the premises; and advertise the application in a locally circulating newspaper/periodical. The Licensing Authority advertises the application on the Council website.

5. Legal and policy implications

- 5.1 The Sub-Committee may take any of the steps set out below, provided they are proportionate and appropriate for the promotion of the Licensing Objectives:
 - a) Approve the application; or
 - b) Modify the conditions of the licence and approve the application; or
 - b) Reject the whole or part of the application.

A condition is modified where it is altered or omitted or any new condition is added.

- 5.2 Section 6 of the Licensing Statement of Policy, paragraph 6.1, as set out below, is relevant and is brought to the attention of the Licensing Act Sub-Committee: "The Licensing Authority, through the exercise of its licensing functions once its discretion is engaged, shall not seek to restrict the trading hours of any particular premises unless it is considered necessary and proportionate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits;" having regard to the Council's Statement of Licensing Policy and the guidance issued under section 182 of the Licensing Act 2003.
- 5.8 The licence application is made in accordance with the Licensing Act 2003 and the Licensing Statement of Policy. The decision may be appealed, by the applicant or any other party to the hearing, within 21 days of written notification of the determination made by the sub-committee.
- 5.9 When representations have been made the Council must hold a Hearing within 20 working days of the close of the consultation period. The Licensing Act 2003 (Hearings) Regulations 2005 allows the Licensing Authority the power to extend the time limit for a specific period, when it considers this to be necessary and in the public interest.