

REPORT TO:		Licensing Act 2003 Sub-Committee	
DATE:		10 October 2017	
PORTFOLIO:		Cllr Gareth Molineux - Resources	
REPORT AUTHOR:		Wendy Peck Licensing Manager	
TITLE OF REPORT:		Determination of an application to vary a Club Premise Certificate – Great Harwood Cricket Club	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	Options	Not applicable	
KEY DECISION:	Options	If yes, date of publication:	

1. Purpose of Report

1.1 Hearing held under Section 85(3) of the Licensing Act 2003 following a representation made by a member of the public (other person)

In relation to:-

Application to vary a Club Premise Certificate – Great Harwood Cricket Club

2. Recommendations

2.1 The sub-committee is requested to consider the application to vary a Club Premise Certificate made under Section 84 of the Licensing Act 2003 and the subsequent representation made by a member of the public (other person)

2.2 Having regard to the representation take such steps mentioned below that it deems appropriate for promotion of the licensing objectives.

2.3 The steps are;-

To modify the conditions of the certificate

To reject whole or part of the application

And for this purpose the conditions of the certificate are modified if any of them is altered or omitted or any new condition added

3. Report of the licensing Manager

- 3.1 On the 17th August 2017 an application was submitted under Section 84 of the Licensing Act 2003 to vary the Club Premise Certificate of Great Harwood Cricket Club.
- 3.2 The application was submitted to amend the layout and plan for the premise following construction of a single story extension with flat roof terrace to the western side of the existing club house. It is proposed in the application that the terrace will cease to be used at 2300 hours.
- 3.3 For members information the current certificate does cover the whole of the internal and external areas of the cricket ground. However the area that is referred to in the variation application was previously only a wooden structure from which people could be supplied with alcohol. It was not particularly a sitting out area as the terrace is proposed to be. The terrace in effect, with the doors open, is almost an extension of the function room.
- 3.4 The current provisions on the Club Premise Certificate are set out below;-

Activity	Day	Hours
Films	Sunday – Thursday	10.00 – 00.00
	Friday & Saturday	10.00 - 01.00
Indoor Sporting Event	Sunday – Thursday	10.00 – 00.00
	Friday and Saturday	10.00 – 01.00
Live Music	Sunday – Thursday	10.00 – 00.00
	Friday and Saturday	10.00 – 01.00
Recorded Music	Sunday – Thursday	10.00 – 00.00
	Friday and Saturday	10.00 – 01.00
Performance of Dance	Sunday – Thursday	10.00 – 00.00
	Friday and Saturday	10.00 – 01.00
Anything of a similar description	Sunday – Thursday	10.00 – 00.00
	Friday and Saturday	10.00 – 01.00
Supply of alcohol	Sunday – Thursday	10.00 – 00.00
	Friday and Saturday	10.00 – 01.00
Open to the public	Sunday – Thursday	10.00 – 00.00
	Friday and Saturday	10.00 – 01.00

For all activities none standard timing are: - Christmas Eve 10.00 – 03.00
New Year's Eve 10.00 – 03.00

- 3.5 The applicants have indicated in their operating schedule attached at appendix A to this report some further conditions that will be attached to the club premise certificate should the application be successful in order to ensure that the licensing objectives can be adhered to

4. Details of the Representation

4.1 On the 15th September 2017 a valid representation was made by 'a other person' on the grounds of public nuisance.

5. Legal Background to the objection.

5.1 Under Section 84(4) of the Licensing Act 2003(LA03) the application to vary the Club Premise Certificate must be advertised in accordance with regulations made by the Secretary of State under sub section 6 of section 71.

5.2 During the 28 day period following advertisement of the application representations from responsible authorities or other persons can be submitted to the licensing authority in relation to the application.

5.3 Section 85(5) prescribes that a relevant representation means a representation which is about the likely effect of the grant of the application on the promotion of the licensing objectives, which are

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

5.4 If the licensing authority receives a representation from a responsible authority or any other person that is not withdrawn it must hold a hearing, unless all parties deem it unnecessary, within 20 working days beginning with the day after which representations can be made.

6. Government Guidance made under Section 182 of the Licensing Act 2003

6.1 Members may wish to note that paragraph 2.33 of the Guidance issued by the Government under Section 182 of the Licensing Act 2003 states that public nuisance is "not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community

7. The Licensing Act 2003

7.1 The Licensing Act 2003 requires you to:

- a) Have regard to the representation and only consider elements of representations that are about the likely effect of the event going ahead on the promotion of the Licensing Objectives
- b) Members are also referred the relevant section relating to Public Nuisance in Hyndburn Borough Council's Statement of Licensing Policy which is set out below:-

Prevention of public nuisance

The most obvious aspect of public nuisance is noise. The primary source of noise is amplified music, either uncontained outdoors or emanating from premises, which do not have sufficient measures in place to contain the sound. Late at night or in the early hours of the morning, individuals shouting in the street or groups of people talking in an animated fashion generate a substantial level of noise and in some cases this is aggravated by offensive language.

As customers leave licensed premises, the sound of their conversation can disturb residents. Potentially greater problems arise when customers congregate or accumulate outside the licensed premises. However, it is clear that the person in control of the premises has a responsibility to ensure that disturbance to residents and businesses are kept to a minimum.

In considering licence applications where relevant representations are received, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and disorder having regard to all the circumstances of the application. When addressing public nuisance, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent public nuisance, taking account of the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule and may include:

- The steps the applicant has taken or proposes to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, noise limitation devices and keeping windows closed during specified hours.
- The steps taken to ensure that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent public nuisance
- The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises, for example warning signs at exits, and warning announcements within the premises, and the use of door supervisors to pass on the message
- The steps the applicant has taken or proposes to prevent queuing, or if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise manage and monitor the queue to prevent disturbance of obstruction, and to prevent patrons congregating outside the premises.

- The implementation of a last admission time, and how the last admission time relates to the closing time of the premise
- The steps the applicant has taken or proposes to take to manage queues so that patrons who will not gain admission before any last admission time are advised accordingly
- The steps the applicant has taken to reduce queuing outside the premises and to minimise the length of time people have to queue at the premises
- The steps the applicant has taken to advise patrons that they will not be admitted if they are causing a disturbance, and the steps taken to implement a procedure for banning patrons who continually leave or arrive at the premises in a manner which causes a public nuisance or disturbance.
- The arrangements made or proposed for parking by patrons and the effect of parking on local residents.
- The arrangements the applicant has made or proposes to make for security lighting at the premises, and the steps the applicant has taken or proposes to take to ensure that lighting will not cause a nuisance to residents.
- Whether there is sufficient provision for public transport for patrons, for example the provision of a free phone taxi service or other arrangements with taxi companies, and whether information is provided to patrons about the most appropriate routes to the nearest transport facilities.
- Whether taxis and private hire vehicles serving the premises or traffic flow from the premises are likely to disturb local residents.
- Whether routes to and from the premises pass residential premises.
- Whether other appropriate measures to prevent nuisance have been taken, such as the use of CCTV or the employment of an adequate number of licensed door supervisors.
- The measures proposed to prevent the consumption or supply of illegal drugs, including any search and disposal procedures.
- The procedures in place for ensuring that no customer leaves with bottles or glasses
- If the applicant has previously held a licence within the area of the Council, the history of any enforcement action arising from those premises.
- Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.

- The steps the applicant has taken or proposes to take in order to ensure that standards of public decency are maintained in any entertainment provided at the premises.
- If appropriate, whether music is played at a lower level towards the end of the evening in a “wind down period”.
- The applicant’s proposals for the length of time between the last sales of alcohol, and the closing of the premises.
- The steps the applicant has taken to prevent noise and other public nuisance from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking e.g. a street or pavement adjacent to the premise

The above list is not intended to be exhaustive, and the applicant should consider all aspects of the operation that may affect public nuisance.

8. Legal Implications

Members are reminded that they should:

- follow the rules of natural justice and the code of conduct for elected members in licensing applications.
- have read or should hear all the facts prior to making a determination.
- Give consideration to the Human Rights Act 1998, in particular:
 - the right to peaceful enjoyment of possessions;
 - the right to a fair and public hearing within a reasonable time;
 - respect for private and family life; and
 - the right to freedom of expression.

9. Conclusion

In accordance with Section 85(3)(b) of the Licensing Act 2003, the Sub-Committee should consider the representation and must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (i) To modify the conditions of the certificate
- (ii) To reject whole or part of the application
- (iii) allow the variation as set out in the application

The matter for decision, therefore, is which of these steps should be taken.

The applicants have been invited to attend this hearing and he have been advised of their rights to be represented.

10. Implications

Financial implications (including any future financial commitments for the Council)	N/A
Legal and human rights implications	A Club Premise Certificate is considered to be a possession under Article 1 of the Human Rights Act 1988. There is a right to appeal any decision made by the licensing authority in relation to this application. This right is extended to the applicant and the person making a representation.
Assessment of risk	N/A
Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	N/A

**11. Local Government (Access to Information) Act 1985:
List of Background Papers**

- 11.1 Appendix A Application including the proposed operating schedule
- Appendix B Existing Licence
- Appendix C Representation
- Appendix D Plan of the original layout
- Appendix E Amended Plan