

## **ALCOHOL & ENTERTAINMENT LICENSING SUB COMMITTEE**

**- 17 JUNE 2010**

**ITEM 3**

### **APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT UPPER SAXONDALE VILLAGE HALL AND TENNIS CLUB**

#### **REPORT OF THE SENIOR LICENSING OFFICER**

## **THE APPLICATION**

### **Applicant**

Upper Saxondale Residents Association

### **Premises**

Upper Saxondale Village Hall and Tennis Club, St James Park Upper Saxondale Radcliffe on Trent Nottingham

### **History**

The premise to which the application relates is a small combined tennis clubhouse and village hall. The premises have not benefited from any type of licence prior to this application

### **Application**

This application is for the grant of a new Premises Licence under Section 17 of the Licensing Act 2003 for the above premises

### **The operating schedule shows**

The Hall will be run for the benefit of residents and the Tennis Club.

### **Relevant licensable activities**

The sale of alcohol by retail on and off the premises, regulated entertainment, and late night refreshment.

The hours for the sale of alcohol and regulated entertainment are:

Monday to Sunday 10:00 – 01:00

The hours for late night refreshment are:

Monday to Sunday 23:00 – 01:00

The hours the premises will be open to the public are:

Monday to Sunday 0800 – 01:30

Non standard hours on New Years Eve from the start of licensing on that day until the end of licensing hours on New Years Day.

## **RELEVANT REPRESENTATIONS:**

The following are summaries of the representations made; the full representations are attached to the hearing papers.

### **Responsible authorities**

No representations have been made by any of the Responsible Authorities, however both the Police and the Environmental Health Service have agreed conditions with the applicant as follows:

#### **Police**

A Challenge 21 scheme shall operate at the premises. Any person who appears to be under 21 years of age shall not be served alcohol unless they produce an acceptable form of identification (passport or driving licence or PASS accredited card

A training record shall be kept to record all training of persons selling or supplying alcohol. This record to be made available for inspection and copying by the Police and other officers of Responsible Authorities immediately on request and all such records to be retained at the premises for at least 12 months

There shall be no 16th, 18th or 21st Birthday parties held at the premises

#### **Environmental Health Service**

No regulated entertainment shall be allowed in the outside areas of the premises after 2300 hours.

Notices shall be displayed at the exits to the premises stating that the premises is located close to a residential area and that customers leave quickly and quietly at the request of the management.

### **Interested parties**

John Ayland: The proposed use of the village hall will result in a significant increase in noise and activity to the detriment of residents.

Mr and Mrs Lord: Allowing live music both indoors and outdoors until 1am in a residential area is going to cause loss of amenity and disturbance to a large number of people.

Mr and Mrs Soloman: Noise from the premises has caused a problem in the past. This past use has represented a considerable public nuisance which would become regular if the application were granted. Providing a licensed premise in the heart of the parkland will remove the safe environment they enjoy. The area has suffered from damage and broken glass, there is a likelihood this will increase if the application is granted. The granting of the licence is unnecessary for a residential area and would have a detrimental effect on the quality of our home life.

## Local Policy Considerations

1.1 The Act provides that Rushcliffe Borough Council has a duty to carry out its functions under the Act with a view to promoting the prescribed licensing objectives:

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

## Human Rights

The Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights when determining applications.

- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- Article 6 - that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 - that everyone has the right to respect for his home and private life.

## Consideration of the impact of licensing activities

The characteristics of an area and the impact that the premises may have upon that area are a major fundamental consideration in determining whether a licence should be granted and if so what conditions should be attached to the licence. Conditions to be attached to various authorisations will be focussed on matters that are **within the control of individual licensees** and others in possession of relevant authorisations. Accordingly these matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the “vicinity” will be a question of fact to be determined in the light of the individual circumstances of the case. Consideration will primarily be given to the direct impact of the licensed activity on members of the public living, working or engaged in normal activity in the area concerned.

This policy provides information and guidance to licence applicants, objectors and interested parties on the general approach that the Authority will take in terms of licensing. Each application will be considered individually on its own merits, and the Authority in adopting this licensing policy is indicating that wider considerations will be taken into account in making an appropriate determination, where relevant objections have been made.

## POLICY 5 (Section 6)

When preparing or considering applications, applicants, interested parties, relevant bodies and the Licensing Authority should, where appropriate, take into account the following matters in assessing both the potential for the licensing objectives to be undermined and the necessity for, and proportionality of, any conditions which may be imposed on any resulting licence, certificate or permission: -

- (a) The nature of the area within which the premises are situated
- (b) The precise nature, type and frequency of the proposed activities
- (c) Any measures proposed by the applicant as outlined in the operating schedule to mitigate or prevent any adverse impact upon the licensing objectives (including the proposed hours of operation)
- (d) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises
- (e) Means of access to and exit from the premises
- (f) Transport provision in the area and the likely means of public or private transport that will be used by customers either arriving or leaving the premises
- (g) The potential cumulative impact
- (h) Other means and resources available to mitigate any impact.
- (i) Such other matters as may be relevant to the application.

**REASON: To ensure that all relevant matters are taken into consideration during the application process**

## **National Guidance**

- 1.15 Each application must be considered on its own merits and any conditions attached to licenses and certificates must be **tailored to the individual style and characteristics** of the premises and events concerned. This is essential to avoid the imposition of **disproportionate** and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case.
- 1.16 The licensing authority should only impose conditions on a premises licence or club premises certificate which are **necessary and proportionate** for the promotion of the licensing objectives.
- 10.4 Under the former licensing regimes, the courts have made it clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.11 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. **It may only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.**
- 10.12 It is perfectly possible that in certain cases, because the test is one of necessity, where there are **other legislative** provisions which are relevant and must be observed by the applicant, **no additional conditions** at all are needed to promote the licensing objectives.
- 13.40 With regard to licensing hours, the statement of policy should generally emphasize the consideration which will be given to the individual merits of an application. The Government strongly recommends that statements of policy should recognize that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving

premises simultaneously are avoided. This can help reduce friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. (See Rushcliffe Policy 4.3 and 4.4)

- 13.23 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is **not a matter** for a licensing authority in discharging its licensing functions or for its statement of licensing policy. “**Need**” is a matter for planning committees and for the market. (Note Rushcliffe does not have a cumulative impact policy)
- 13.64 The statement of licensing policy (see Rushcliffe Policy statement 5.11) should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

## Observations

The committee is obliged to determine this application with a view to promoting the licensing objectives in the overall interests of the local community, and must give appropriate weight to:

- the representations presented by all the parties;
- the guidance;
- the statement of licensing policy;
- the steps that are necessary to promote the licensing objectives.

Of course the Committee must also have regard to all of the representations made and the evidence it hears.

The Committee must take such of the following steps as it considers necessary for the promotion of the, licensing objectives:

- (a) Grant the application as submitted
- (b) Modify the conditions of the licence, by altering or omitting or adding to them.
- (c) Reject the whole or part of the application.

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

Section 35(5)(a) the Licensing Act 2003 “relevant representations” means representations which, are about the likely effect of the grant of the application on the promotion of the licensing objectives.

## Other matters

Mr Ayland one of the interested parties has indicated he will not be attending the hearing.

### **Standard Checklist for Reports**

Meeting: Alcohol & Entertainment Licensing Sub Committee

Report Title: Application for the grant of a premises licence at Upper Saxondale Village Hall and Tennis Club

Author: Senior Licensing Officer

The following issues are relevant to this report and have been properly considered in its preparation and in the recommendations made. Appropriate consultation has been made and advice sought on these issues as required. (See notes on the intranet)

Financial	<input type="checkbox"/>	Human Rights	<input type="checkbox"/>
Legal	<input type="checkbox"/>	Equal Opportunities	<input type="checkbox"/>
Policy	<input type="checkbox"/>	Crime and Disorder	<input type="checkbox"/>
Risk Management	<input type="checkbox"/>	Environment/EMAS	<input type="checkbox"/>

(Mark all appropriate boxes)

Has the relevant Deputy Chief Executive signed off the report n/a

Has this report been considered by SMT n/a

Comments:  
None

Name of Officer Completing Form: Duncan Collings

*This form must be completed and sent to the relevant Member Support Officer together with the Report by the agreed deadline. It will also be appropriate to complete this form when producing reports for certain officer meetings, e.g. Management Team*

**Notes for completion of this form can be found on the intranet**