

When telephoning, please ask for: Angela Goodman
Direct dial 0115 914 8482
Email agoodman@rushcliffe.gov.uk

Our reference:

Your reference:

Date: 4 October 2010

To all Members of the Alcohol & Entertainments Licensing Sub Committee

Dear Councillor

A meeting of the Alcohol & Entertainments Licensing Sub Committee will be held on Tuesday 12 October 2010 at 10.00 am in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely

Head of Corporate Services

AGENDA

1. Appointment of Chairman
2. Procedure

A copy of the procedure notes is attached (pages 1 – 5).

3. Hearing

West Wing, Sutton Fields House, Station Road, Sutton Bonington,
Leicestershire

Application for a Premises Licence

- a) Report of the Senior Licensing Officer is attached (pages 6 - 11).
- b) Application is attached (pages 12 - 34).
- c) Objections are attached (pages 35 - 58).
- d) Nottinghamshire and City of Nottingham Fire and Rescue Authority Enforcement Notice (pages 59 – 68)
- e) Notice of Hearing is attached (pages 69 - 72).

Membership

Councillors Mrs D M Boote, I I Korn and G S Moore

Meeting Room Guidance

Fire Alarm - Evacuation - in the event of an alarm sounding you should evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble in the Nottingham Forest car park adjacent to the main gates.

Toilets - Facilities, including those for the disabled, are located opposite Committee Room 2.

Mobile Phones – For the benefit of other users please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones - When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.



**ALCOHOL & ENTERTAINMENTS LICENSING SUB
COMMITTEE**

12 OCTOBER 2010

**APPLICATION FOR THE GRANT OF A PREMISES
LICENCE AT THE WEST WING SUTTON FIELDS
HOUSE STATION ROAD SUTTON BONINGTON**

3

REPORT OF THE SENIOR LICENSING OFFICER

Summary

THE APPLICATION

Applicant

Tanya Nadar

Premises

West Wing, Sutton Fields House, Station Road, Sutton Bonington.

History

The premise to which the application relates is part of a listed building that has been used for residential purposes for many years. It was part of a former school building some thirty years ago but has never had the benefit of any type of liquor licence. It is at present used as a dwelling house but with bed and breakfast accommodation.

Application

This application is for the grant of a premises licence under Section 17 of the Licensing Act 2003 for West Wing, Sutton Fields House, Station Road, Sutton Bonington.

The operating schedule shows

The house is part of a grade two listed building, used in part at present for bed and breakfast accommodation, the applicant wishes to hold small functions and occasional events using the grounds for weddings etc in marquees. Precautionary steps will be taken to reduce noise levels for local residents, all windows and doors will be kept closed after 11pm. Customers will be supervised when leaving the premises, and a proof of age scheme for under age sales will be in place.

Relevant licensable activities

The sale of alcohol by retail on the premises only

Monday to Sunday 11:00 – 00:00

Residents of the premises would be entitled to the sale of alcohol 24 hours per day.

The provision of regulated entertainment indoors and outdoors

Monday to Sunday

12:00 – 23:00

The premises will be open to the public

Monday to Sunday

00:00 – 0000

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, the Environmental Health Service have agreed the following conditions with the applicant:

1. No more than **15 events** are to be held **outside** in any calendar year.
2. All outdoor events will finish by **2300** hrs.
3. During the provision of regulated entertainment, noise should not be **audible at the boundary** of the nearest residential premises.
4. During the provision of regulated entertainment, all relevant doors and windows should be kept closed unless being used for entering or leaving the premises.
5. Signage will be displayed advising customers to be respectful to residents and to leave the area in a quiet and orderly manner.

It will also be noted that although not making a formal representation the Fire Service have made the licensing authority aware that they have chosen to serve Enforcement Notices on the applicant as a result of this application for breaches of The Regulatory Reform (Fire Safety) order 2005, copies of which are attached to the hearing papers.

Interested parties

The following is a summary of the objections received, full copies of the various representations are attached to these papers.

Mr D Williams: Noise will cause a public nuisance.

Mrs Donaghy: Noise from outdoor music and activities will disturb residents and her guests.

Mr West -Webb: Lives at Tree Tops which is a flat attached to Sutton Fields House. The walls of the building are not insulated and therefore noise and vibrations can already be heard, this will be drastically increased if a licence is issued including the

noise from music and that made as patrons leave the premises. He is also concerned regarding litter which will be blown onto his property.

Miss Wills: Lives at The Bungalow in the grounds of the property, and states that the application would lead to unacceptable noise and disturbance, a marquee placed in the grounds would be placed within metres of her house causing huge nuisance. The house is old and has no soundproofing so noise will inevitably escape.

Mrs Ellis: Lives in the East Wing of Sutton Fields House which is attached to the West Wing, she states the premises are not soundproofed therefore there will be a huge increase in noise which will disturb her family. She is concerned about drunken behaviour, offensive language and amplified music. She strongly objects to a commercial enterprise in a residential area.

Mr R Ellis: Owns Dovecote House within the Sutton Fields House complex, and objects to the potential of rowdy and intoxicated behaviour of guest at the West Wing, which will cause a public nuisance.

Mr G Ellis: Lives at The Cedars Sutton Fields House, and states that the applicants have no measures in place to deal with crime and disorder and suggest a number of conditions be attached to the any granted licence. He states that there is no fire risk assessment in place and that the escape routes are not adequate. As the premises are attached to the East Wing amplified music will generate significant noise levels as well as noise generated from customers. A noise impact assessment should be developed.

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

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.

10.13 The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardized conditions which ignore these individual aspects. It is important that conditions are **proportionate** and properly recognize significant differences between venues.'

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)

13.64 The statement of licensing policy (see Rushcliffe Policy statement 5.11/12) indicates 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

13.64 above advises that planning and licensing should be dealt with as two separate regimes, it should be noted therefore that the attachments in these papers relating to a planning decision were submitted by Mrs D Ellis as part of her representations. In respect of the representations made by the interested parties regarding concerns as to noise and crime and disorder it should be noted that as stated above conditions have been agreed with the Environmental Health Service and the Police have made no objections.

Financial Comments

None

Section 17 Crime and Disorder Act
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None

Diversity

None

Background Papers Available for Inspection: Nil

Standard Checklist for Reports

Meeting: Alcohol & Entertainment Licensing Sub Committee

Report Title: Application for the grant of a premises licence at the West Wing Sutton Fields House Station Road Sutton Bonington

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 No

Has this report been considered by SMT No

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