



Alcohol & Entertainment Licensing Sub Committee

2 October 2018

Application for a Premise's Licence The Griffin Public House, Plumtree

Report of the Executive Manager - Neighbourhoods

1. Summary

1.1. **Applicant** – Richard Fielding (Griffin Inn Plumtree Ltd)

1.2. **Premises** – The Griffin Inn Main Road, Plumtree, NG12 5NB

1.3. **History** - The premise to which the application relates was latterly unsuccessful Public House which was licensed prior to the Licensing Act 2003. The premises were closed for approximately three years and have been empty since.

1.4. The premise has in the past benefitted from an alcohol licence which it traded from :-

10am to Midnight Sunday to Thursday, and 10am to 00:30hrs Friday and Saturday.

The opening Hours were from 5am to 00.30am Sunday to Thursday, 5am to 01:30hrs Friday and Saturday.

The then owners Greene King, relinquished the licence at the sale of the building on 25 August 2016.

1.5. This application was made on the 5 July 2018, by Inn Confidence Ltd of 4th Floor Merchants Court, 2-12 Lord Street, Liverpool, L2 1TS. This is on behalf of Mr Richard Fielding of The Old Rectory, Church Hill, Plumtree, NG12 5ND.

2. Application

2.1 The current application is for the Grant of a Premise's Licence under Section 17 of the Licensing Act 2003. The applicant seeks permission for the sale of alcohol for consumption on and off the premises, also for the provision of Films, the provision of Live Music, The Provision of Recorded Music, and the provision of Late Night Refreshment.

2.2 **Relevant licensable activities** - The application indicates that the following activities are applied for with the relevant start times and terminal hours:

Supply of alcohol

Sunday to Thursday 10.00 am – Midnight
Friday to Saturday 10.00 am – 01.00am the following day
(Please see application for non- standard timings from Midnight to 1am)

Provision of Films

Sunday to Thursday 10.00 am – Midnight
Friday to Saturday 10.00 am – 01.00am the following day
(Please see application for non-standard timings from Midnight to 1am)

Provision of Live and Recorded Music

Sunday to Thursday 10.00 am – Midnight
Friday to Saturday 10.00 am – 01.00am the following day
(Please see application for non-standard timings from Midnight to 1am)

Late Night Refreshment

Sunday to Thursday 10.00 am – Midnight
Friday to Saturday 10.00 am – 01.00am the following day
(Please see application for non-standard timings from Midnight to 1am)

Premises Opening Hours

Sunday to Thursday 08.00 – 00.30 hrs
Friday to Saturday 08.00 – 01.30hrs

- 2.3 **The operating schedule shows** - The applicant has considered the impact of the proposed application and has indicated that CCTV will be provided at the premises, that a Challenge 25 proof of age scheme will be in force in relation to the sales of alcohol, and provision to reduce the emission of noise from the premises to reduce any public nuisance that may arise from the operation of the premises.

3. Agreed Conditions

- 3.1. **Police** :-The applicant and the Police have agreed the following conditions should the application be granted.

1. A CCTV system with recording equipment shall be installed and maintained at the premises. Cameras shall encompass all ingress and egress to the premises and all areas where the sale/supply of alcohol takes place. Equipment shall be maintained in good working order and: be of evidential quality and reproduce coloured images in all lighting conditions, particularly facial, indicate the correct time and date, be retained for 31 days, sufficient staff will be trained to use the system, the original images will be made available for inspection immediately upon request to officers of Responsible Authorities. Copies of the recordings shall be provided in a format which can be viewed on readily available equipment without the need for specialist software.
2. A bound and sequentially paginated refusals book or electronic record shall be kept at the premises to record all instances where admission or service is refused.

- Such records shall show:
- The basis for the refusal;

- The person making the decision to refuse; and
- The date and time of the refusal.

Such records shall be retained at the Premises for at least 12 months, and shall be made available for inspection and copying by the Police or any other authorised person upon request.

3. All members of staff involved in the retail sale of alcohol shall be fully trained. The training shall be on going and each member of staff shall be reviewed every six months. All details of the level of training will be recorded in an electronic or paper record. This information shall be made available for inspection and copying by the Police or any other authorised person immediately on request and all such records shall be retained at the premises for at least 12 months.
 4. Challenge 25 posters will be displayed in prominent positions.
 5. A Challenge 25 or similar policy will be implemented and enforced at all times. Any person who appears to be under 25 years of age shall not be allowed to purchase alcohol unless they produce an acceptable form of photo identification. (e.g. a passport or driving licence, Military ID or PASS accredited card.)
 6. After 23:00hrs until close of business there will be no consumption of food and or drink in the outside areas to the front, the car park areas and rear beer garden. The outside area to the rear only after 23:00hrs shall be used for the purpose of smoking only.
 7. Signage shall be displayed advising customers to be respectful to residents and to leave the area in a quiet and orderly manner.
 8. All doors and windows shall be kept closed except for access and egress when amplified regulated entertainment takes place after 2300hrs.
 9. Noise arising from the provision of the Regulated Entertainment shall not be audible at the boundary of the nearest residential premises after 23:00hrs.
 10. Alcohol will not be allowed to leave the premises in open bottles or containers, other than customers using the beer garden
- 3.2. **Environmental Health**:- The applicant and the Council's Environmental Health have agreed the following conditions should the application be granted.
1. The garden area will not be used for licensable activity after 2300 hrs on any day.
 2. No light on or from the property shall be provided where the lights causes a nuisance to nearby residents or businesses.
 3. The premises and public areas nearby are kept free from litter associated with operation of the business.

4. Satisfactory arrangement will be put in place to supervise an orderly dispersal of customers when leaving the property to ensure the minimum of noise and disturbance to local residents and businesses.
 5. Notices will be appropriately displayed, in a place where they can easily be read, asking customers to leave the premises and the area quietly and to dispose of waste responsibly.
 6. Deliveries to and waste removal from the site are undertaken at a time and in a manner that does not cause disturbance.
 7. Live or recorded music from regulated entertainment shall not be audible at the nearest noise sensitive property, so as to cause a disturbance to local residents or businesses.
 8. The premises licence holder or his/her representative shall conduct regular assessments of the noise coming from the premises on each occasion they are used for regulated entertainment. Appropriate steps shall be taken to reduce the level of noise where it is found to be heard at the façade of the nearest residential property.
 9. Any complaints received about noise shall be logged and any appropriate remedial action taken as a matter of urgency.
- 3.3. The applicant has agreed one further condition be placed on the licence which was agreed with the former owner of the premises Mr [REDACTED] that **'There shall be no regulated entertainment or external speakers operating in the outside area at any time'** Mr [REDACTED] has withdrawn his objection.

4. Relevant Representation

- 4.1. The following is a summary of the representation made; the full representations are attached at Appendix C.
- 4.2. **Responsible authorities** - None of the responsible authorities have made any representations regarding this application.
- 4.3. **Residents**
 - 4.3.1. 11 residents have objected and a compilation of the issues are set out below. The residents have raised objections that the period between 23:00hrs and 01:00 hrs there will be an increase in noise and possible disorder by drunken persons leaving the premises. The noise generated by people leaving in cars and those persons waiting at the bus stops. Objections have also been raised over the placing of the Blue notices. **There are 11 objectors and the full email trail is at Appendix C.**

5. Local Policy Considerations

- 5.1. 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

6. Human Rights

6.1. 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.

7. Representations

7.1. Where representations are received the characteristics of an area and the impact that the premises may have upon that area will be a fundamental consideration in determining whether a licence should be granted and if so what conditions should be attached to it. Conditions will be focussed on matters that are **within the control of individual licensees** and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to 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.

8. Policy

8.1 Policy 1 (Section 6)

The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.

REASON: To ensure the promotion of the licensing objectives.

8.2 Policy 2 (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: -

- (i) The nature of the area within which the premises are situated.
- (ii) The precise nature, type and frequency of the proposed activities.
- (iii) Any measures proposed by the applicant as outlined in the operating schedule.
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) Means of access to and exit from the premises.
- (vi) 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.
- (vii) Parking provision in the area.
- (viii) The potential cumulative impact (not applicable at this time in Rushcliffe).
- (ix) Other means and resources available to mitigate any impact.
- (x) 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

8.3 Section 182 Guidance

(1.16) Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall”, and “will”, is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives
- must be precise and enforceable
- must be unambiguous and clear in what they intend to achieve
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation
- Must be tailored to the individual type, location and characteristics of the premises and events concerned.
- should not be standardized and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case:
- should not replicate offences set out in the 2003 Act or other legislation
- should be proportionate, justifiable and be capable of being met (for example, whilst beer glasses may be available in toughened glass, wine glasses may not)
- cannot seek to manage the behavior of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behavior of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.

(1.17) Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative

impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location 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 appropriate for the promotion of the licensing objectives in an individual case.

(9.37) As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

(9.38) In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

(9.42) Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

(9.43) The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

(10.08) The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.

(10.09) It is possible that in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, **no additional conditions** are appropriate to promote the licensing objectives.

(14.65) There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

9. Observations

9.1. 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 steps that are appropriate to promote the licensing objectives.
- the representations (including supporting information) presented by all the parties.
- the guidance.
- the statement of licensing policy.

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

9.3. 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.

9.4. 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.

9.5. 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.

10. Other Matters

10.1. Representations In addition to the representations received three further representation were made but either deemed not valid as they did not relate to

the licensing objectives and representations were made but received outside the objection period.

For more information contact:	Peter Harris Senior Licensing Officer 0115 914 8231 email pharris@rushcliffe.gov.uk
Background papers available for Inspection:	None
List of appendices (if any):	Appendix A (Application forms) Appendix B (Applicants Communications) Appendix C (Objectors) Appendix D (Rejected Objections) Appendix E (Photos Griffin) Appendix F (map of local area not included, to be produced at hearing)