

Licensing Sub-Committee – Tuesday 13 March 2007

TO DETERMINE THE FOLLOWING APPLICATION RECEIVED UNDER THE LICENSING ACT 2003 FOR A NEW PREMISES LICENCE WHEREBY RELEVANT REPRESENTATIONS HAVE BEEN RECEIVED FROM INTERESTED PARTIES AND HAVE NOT BEEN WITHDRAWN. AS A CONSEQUENCE THE MATTER MUST BE DETERMINED BY THE LICENSING SUB COMMITTEE.

Report of the Licensing Manager

Statutory Powers: Licensing Act 2003

Financial Implications: There are no direct financial implications to the Council from this Report

Purpose: To determine an application for a new Premises Licence at **Newnham Park, Plympton, Plymouth** in accordance with Section 18 of the Licensing Act 2003.

There is a link to the Council's priorities of CP2: 'Creating the conditions for the growth and maintenance of quality economic activity' and CP3: 'Maintaining the district's distinctive environment whilst enabling access and sensitive development'.

RECOMMENDATION

That the Sub-Committee consider the application for a new style Premises Licence and make a determination in respect of this application, namely to:

- i grant the application as submitted, subject to any Mandatory Conditions required;**
- ii modify the conditions;**
- iii exclude any of the licensable activities to which the application relates;**
- iv to refuse to specify a person in the licence as the premises supervisor;**
- v reject the application,**

in line with the licensing objectives (Section 4) contained within the Licensing Act 2003.

Background/The Issues

1 Summary of Application

- 1.1 An application has been received from Shaun Hooper on behalf of Edge Promotions for the grant of a New Premises Licence for **Newnham Park, Plympton**. A copy of the application is attached (**Appendix A**).
- 1.2 Newnham Park, Plympton is a country estate on the boundary of South Hams and Plymouth and lies between the city of Plymouth and Dartmoor National Park. The estate has an established reputation for clay pigeon shooting and also offers the land for other recreational activities such as mountain biking, carriage driving, caravan exhibitions and occasional music festivals. For this application an identified area of land at Newnham Park is being hired out to the Premises licence applicant for amplified musical events with a proposed occupancy of up to 14,999 people at any one time.
- 1.3 During the advertising period the Licensing Department received representations from the Devon Fire and Rescue Service, the Environmental Health, the Police and from thirty eight residents living in the vicinity. Further representations from residents have since been received but deemed 'out of time'
- 1.4 The Responsible Authorities also made suggestions of how their concerns may be overcome by the addition of conditions to the licence. Their suggestions are detailed below but unfortunately not all the proposals will resolve the issues raised by the residents.
- 1.5 Proposed conditions from Responsible Authorities as follows:
- 1.6 **Devon Fire & Rescue Service (Representation 1)**
 1. A minimum of three months notice should be given to the relevant authorities
 2. The notice should include
 - a. A site specific plan in compliance with the requirements of the Licensing Act
 - b. A Safety event plan which covers public safety
 - c. A Fire Safety Risk Assessment
 - d. Proposed inclusive maximum of persons on site to be included
 3. It should be ensured all the above complies with the relevant guides and documents covering outdoor events

1.7 **Environmental Health (Representation 9)**

Noise and vibration must not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed

1.8 **Police (Representation 17)**

1. The licensee shall liaise with the police a minimum of four months prior to the event to:

- i) Confirm the dates and times of the event.
- ii) To discuss the policing of the event and to update Traffic Management Plan if required.

2. Where it is agreed with the licensee that Special Police Services are required. The licensee shall make arrangements with the Devon & Cornwall Constabulary for special police services, necessary equipment and other related items on the licensed site during the period of the event for securing the safety of persons present on the site and for securing adequate access for emergency vehicles.

3. As a condition of entry to the site persons consent to being searched, upon request.

4. There shall be a facility at / near the entrance to the arena to be able to conduct a search away from the view of the public.

1.9 There has in the past been music festivals held at Newnham Park, licensed under The Local Government (Miscellaneous Provisions) Act 1982 the last one being two years ago which was for an occupancy of 6,600 people and although this particular event took place over four days it caused traffic chaos in Plympton. The District Councils Environmental Health Department received 27 complaints of noise and traffic gridlock and Plymouth City Council received additional complaints of noise nuisance and gridlock. Residents were complaining they were delayed in traffic for two hours.

1.10 The Licensing Officer has been in telephone contact with 32 of the 38 residents who have made representations and there is a general consensus that by limiting the licence to 2 days a year, adding noise conditions, adding a traffic management plan, giving one months notice to residents and restricting the duration of the event e.g. 13:00 –23:00 then this would meet their concerns, however 3 of the 32 residents spoken to were against the whole application based on Public Nuisance therefore a successful mediation where all parties reach agreement has not been possible.

1.11 A condition “*Traffic management plan to be in place for all large events and events which incur road closures or any other traffic implications*” was submitted as part of the application. For a road to be closed an application must be made to the local highways department and since Newnham Park sits on the border for South Hams and Plymouth, both Plymouth and Devon Highways must be involved in consultation. It should be mentioned although the Highways department are not a responsible authority under the Act, with a capacity limit of 14,999 people, traffic gridlock is a serious concern and under the Public Nuisance objective this needs to be taken into consideration.

1.12 The applicants have sought:-

- (A) Plays Friday to Monday 10 am until 11pm both indoors and outdoors
- (E) Live Music Friday to Monday 10 am until 11pm both indoors and outdoors
- (F) Recorded Music Friday to Monday 10 am until 11pm both indoors and outdoors
- (G) Performances of Dance Friday to Monday 10 am until 11 pm both indoors and outdoors.
- (H) Anything of a similar description to that falling within (e), (f) or (g) Friday to Monday 10 am until 11pm both indoors and outdoors
- (I) Provision of facilities for making music Friday to Monday 10 am until 11pm both indoors and outdoors
- (J) Provision of facilities for dancing. Friday to Monday 10 am until 11pm both indoors and outdoors
- (K) Provision of facilities for entertainment of a similar description to that falling with I or j Friday to Monday 10 am until 11pm both indoors and outdoors.

1.13 As the applicant wishes to provide regulated entertainment, under the Licensing Act he requires a new style premises licence. As regards to this application, only Interested Parties or Responsible Authorities may make representation.

1.14 A plan of the location will be available at the hearing showing the premises and other occupied properties in the location.

1.15 The Licensing Department are mediating with parties to try and reach a satisfactory conclusion before the hearing date but severe traffic congestion remains an issue which the applicant has been asked to provide further information.

(Please note that due to the vast amount of paperwork contained within these appendices, full copies have only been circulated to the Subcommittee Members. Any interested parties who would like to receive full (or part) copies are asked to contact Member Support Services on (01803) 861273.

2 Statutory Bodies' Response

- 2.1 Devon & Cornwall Constabulary
Representations **have** been received.
- 2.2 Devon Fire & Rescue Service
Representations **have** been received
- 2.3 Area Child Protection Committee and Local Safeguarding Children Board
No representations have been received
- 2.4 Devon Trading Standards
No representations have been received
- 2.5 South Hams District Council, Environmental Health Department
Representations **have** been received
- 2.6 South Hams District Council, Planning Department
No representations have been received

3 Summary of Representations / Objections

- 3.1 As mentioned above, representations have been received from three of the Responsible Authorities and from over thirty-eight residents living in the vicinity of the proposed licensed premises. Their representations are set out in **Appendix 'B'**

4 Relevant Licensing Policy Considerations

Licensing Objectives

- 4.1 Section 2.1 of the Policy states: The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are the only matters that the Sub Committee should take into account when determining the application and any conditions to be attached to the licence must be lawful, necessary, appropriate, relevant, proportionate, realistic, achievable and within the control of the applicant to accomplish the licensing objectives.
- 4.2 Section 2.2 of the Policy states: A licence will only be granted where the licensing authority is satisfied that these objectives have been met.
- 4.3 Section 2.3 of the Policy lists the kind of measures the licensing authority will be expecting to see taken into account to promote the objectives.

Conditions

- 4.4 Sections 2.5 & 2.6 of the Policy sets out additional legislation, strategies, policies and guidance that the licensing authority will have regard to. Section 4 of the policy sets out what the Sub-Committee should consider before imposing conditions on a licence.
- 4.5 The Guidance issued under Section 182 Licensing Act 2003 also states:
- 4.6 The Licensing Authority may not impose conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions that are necessary to promote the licensing objectives arising out of the consideration of the representations.
- 4.7 Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise may also prove necessary to address any disturbance anticipated as customers enter and leave the premises and therefore, in the immediate vicinity of the premises.

Licensing Hours

- 4.8 Section 6.1 of the Policy states: The LA will deal with the issue of licensing hours on the individual merits of each application. However, when dealing with licensing hours beyond midnight it is more likely that relevant representations will be made unless there are higher standards of control within operating schedules to promote the licensing objectives especially for premises which are situated near residential areas.
- 4.9 Section 6.2 of the Policy states: When considering the representations the licensing authority will give due weight to the alcohol related violence statistics, especially on a Friday and Saturday evening and generally expect premises used for the sale or supply of alcohol or the supply of hot food or hot drinks that wish to operate after midnight, to have CCTV installed inside and outside the premises included in their operating schedule. (The statistics and graphs are available on pages 5,6,& 7 of the Policy).

- 4.10 Section 6.3 of the Policy states: In considering relevant representations, the licensing authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case.
- 4.11 Section 6.4 of the Policy states: The terminal hours will normally be approved where the Applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.
- 4.12 Section 6.5 of the Policy states: The licensing authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Longer opening hours for the sale of alcohol with longer time for consumption (which is not a licensable activity) before closing time may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.

Children

- 4.13 Section 7.1 of the Policy states: The licensing authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from harm.
- 4.14 Section 7.2 of the Policy states: When deciding whether or not to limit access to children the licensing authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children include premises: -
- where entertainment of an adult or sexual nature is provided
 - where there is a strong element of gambling taking place
 - with a known association with drug taking or dealing
 - where there have been convictions of the current management for serving alcohol to minors
 - with a reputation for allowing underage drinking

5. Key Issues

- 5.1 The residents have raised their concerns about licensable activities taking place from Fridays through to Mondays each weekend for six months of the year. They say they are already disturbed by noise from Newnham Park and traffic chaos. Noise and access is a major concern for the residents. If a road closure order was possible this would effectively close five miles of the B3417 between Plympton and Lee Moor thereby causing concern for emergency vehicle access and the unacceptable delays for residents. Two years ago with occupancy of 6,600 and gridlock, residents were held up in traffic for two hours.
- 5.2 Highways have raised a number of queries to the proposed traffic management plan:
- 5.3 A general observation of the area is that Saturday late afternoon/early evening is often a peak period for congestion in the Marsh Mills/Plympton corridor not normal to light as stated. Many businesses open until at least 8pm including the Sainsbury's superstore. The addition of significant numbers of vehicles, many possibly accessing the Coypool Park and Ride from the A38 could put significant strain on the network.
- 5.4 It is proposed that 1000 vehicles can be parked in an hour (that's approximately 17 cars per minute) will 2 to 3000 vehicles take 2 to 3 hours to park? If an average of 6 metres is allowed per vehicle then based on the length and quantity of cars proposed, theoretically there would almost 10 miles of traffic.
- 5.5 The above estimate of cars attending is based on 3.4 persons per vehicle, where did the figure 3.4 originate from?
- 5.6 The Highways Agency also points out at 50 passengers per coach 4000 pedestrians will require 80 coaches to arrive and board all within a 30 minute period. This would require excellent organisational skills. With coaches dropping off on Bell Close this will be leaving passengers to cross Newnham Road with 600 metres to walk until they reach the Park Lane junction. Will pedestrian crossing facilities be provided to cross Newnham Road?
- 5.7 Differential pricing between parking at Newnham Park and the Coypool Park and Ride Site is a good idea in order to deter people from parking at Newnham but how big a differential is proposed? and how will local parking on Bell Close etc be policed?

- 5.8 A very important issue to remember for any large scale event wishing to take place this year would be a Section 278 agreement is currently being negotiated with Alstom, the main contractor for the Langage Energy Centre which will require major junction changes at Deep Mill Lane North and the Ridgeway Roundabout to be completed by the end of June 2007. This is a very tight programme and it is likely that the works will be fully underway in early June and therefore could cause problems for events with signing traffic via the Deep Mill Lane junction.
- 5.9 The alternative route and presumably exit route utilises the C189 Beatland Cross to Boringdon road. The road is only single track in places and is one of the County Councils casualty and severity reduction sites for the current financial year based on the number of casualty collisions reported to the police. The road is well used by traffic travelling between Plympton and Yelverton and vice-versa. If several thousand vehicles are expected to use it travelling south at the end of an event it would not take many vehicles travelling north to gridlock the network. However, I do not consider making the route one-way for the event to be practicable.
- 5.10 Plymouth Argyle has a good deal more infrastructure than Newnham Park to support major traffic movements.
- 5.11 The Sub Committee will now need to consider whether to grant this application as it stands or in the light of the representations to refuse the application or grant it in a different form.

6 Legal Implications

- 6.1 The Act requires mandatory conditions to be imposed (if applicable) on the licence, the wording of which is prescribed by the Act but may be summarised as follows:

(a) Section 19 - Mandatory conditions relating to the supply of alcohol

No alcohol may be supplied unless there is a designated premises supervisor who also holds a personal licence.

Every supply of alcohol under a premises licence must be made or authorised by a personal licensee

(b) Section 20 - Mandatory condition relating to exhibition of films

Children may only be admitted to films in accordance with the classification recommendations of the British Board of Film Classification, or as recommended by the licensing authority.

(c) Section 21 - Door Supervision

Where door supervisors are specified by condition, those individuals must be licensed by the SIA.

- 6.2 As relevant representation in respect of the new premises application, this hearing must be held. (Relevant representations are about the likely effect of the grant of the application on the promotion of the licensing objectives, by interested parties or responsible authorities). The sub-committee must disregard any information or evidence not relevant to the licensing objectives.
- 6.3. The sub-committee must consider this application in accordance with Section 4 of the Licensing Act 2003, which requires that licensing functions must be carried out with a view to promoting the four licensing objectives. The licensing authority must also have regard to its own licensing policy and the Secretary of State's guidance, but may depart from both if it has good reason to do so. Those reasons should be stated.
- 6.4. The Act requires (Section 18) that in dealing with a new application, the committee takes any of the following steps which are necessary for the promotion of the licensing objectives. The steps are:
- (a) To grant the Licence subject to:-
- i subject to any Mandatory Conditions required;
 - ii modify the conditions;
 - iii exclude any of the licensable activities to which the application relates;
 - iv to refuse to specify a person in the licence as the premises supervisor;
 - v reject the application,
- The sub-committee must give its reasons for its decision to take any of these steps. Similarly, if the application is rejected, the sub-committee must give its reasons.
- 6.5 The committee will need to consider the hours of operation proposed, the effectiveness of the operating schedule proposed by the applicant, the representations received, the location of the premises in relation to residential properties, the history of the management of the premises, the evidence produced of any problems in the past, and the likely impact of any extension of hours and activities, public transport, taxi availability, the right the applicant has to operate a business and balancing the rights of residents to the quiet enjoyment and privacy of family life. That South Hams relies on tourism, with the population in the district doubling in the Summer months with holidaymakers both from this country and international visitors who are, in the main, families with young children and retired people – the very segment of society who would perhaps be deterred by anti-social behaviour. These issues, and any other relevant ones, may be explored at the hearing in so far as it reflects the four licensing objectives.

- 6.6 If the sub-committee rejects the application, or modifies the conditions of the licence, the applicant or Interested Parties or Responsible Authorities may appeal within 21 days of notification of the decision to the Magistrates' Court. Those making relevant representations may also appeal if they believe that the licence should not have been varied, or that, when varying the licence, the licensing authority ought not to have modified the conditions, or ought to have modified them in a different way. The Magistrates' Court may dismiss the appeal, or substitute its own decision, or send back the case to the licensing authority with directions as to how the case is to be dealt with. The Magistrates' Court may make any costs order it thinks fit.
- 6.7 If extended hours/licensable activities are granted, the Licensing Act contains review provisions which enable those living or running businesses in the vicinity of the premises, bodies representing them or any of the responsible authorities to apply to this licensing authority for a review of the licence. A hearing follows which enables the sub-committee to use the normal powers at a hearing (set out above) but also to suspend the licence for a period of up to three months or to revoke it.

Risk Assessment

- 7 The Sub-Committee will, in considering the applications and any representations, have to give consideration to the licensing objectives contained within the Licensing Act 2003 of:
1. The prevention of Crime and Disorder;
 2. Public Safety;
 3. The prevention of public nuisance; and
 4. The Protection of children from harm

In addition, due consideration should also be given to the Council's Licensing Policy Statement.

Failure to adequately consider these issues could result in the Council facing an appeal to the Magistrates' Court.

Conclusion

- 8 For the Licensing Sub-committee to determine the Premises Licence application and give reasons for the decision made.

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Licensing Sub-Committee 13th March 2007

Background Documents:

- ❑ Licensing Application for new premises.
- ❑ Representations received from those residents or those having businesses in the vicinity of the premises to be licensed.
- ❑ Responses to Notices of Hearing from residents and businesses
- ❑ Responses to Notices of Hearing from Responsible Authorities
- ❑ Summary of Key Points
- ❑ Guidance on Meeting the Licensing Objectives
- ❑ Guidance issued under Section 182 of the Licensing Act 2003
- ❑ The District Council's Statement of Licensing Policy