

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

20 September 2019

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 APPLICATION FOR A REVIEW OF A CLUB PREMISES CERTIFICATE AT AYLESFORD VILLAGE CLUB, 57 ROCHESTER ROAD, AYLESFORD, KENT ME20 7BS

1.1 Executive Summary

1.1.1 The Licensing & Appeals Committee sitting as a Panel is asked to consider an application for the review of a premises licence made under Section 87 of the Licensing Act 2003 in relation to the premises known as Aylesford Village Club, 57 Rochester Road, Aylesford, Kent. ME20 7BS

1.2 Background and Introduction

1.2.1 The premises known as Aylesford Village Club has the benefit of a club premises certificate under the provisions of the Licensing Act 2003, which authorises the supply of alcohol, performance of dance, films, indoor sporting events, live music, recorded music, anything of a similar description to live music, recorded music and dance and late night refreshment. A copy of the current club premises certificate is shown at **Annex 1**.

1.2.2 An application for a review of the premises licence with supporting documentation made up of photographs and video clips (these will be played during the hearing) has been received from Sara Green and Jason Green, immediate neighbours. A copy of the Review application is shown at **Annex 2**.

1.2.3 The Licensing Authority placed two pale blue A4 notices at the premises for a period of 28 days running from the 5th August 2019 until the 1st September 2019. In addition a notice was placed on the Council's website and on the notice board at Kings Hill Offices.

1.2.4 At any stage, during the 28 day public consultation period, a responsible authority, or other party, may make representations in connection with any of the four licensing objectives namely:-

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety

- Protection of children from harm

Provided that the grounds for the application for review are relevant to the promotion of the licensing objectives and, in the case of applications by other parties, are not vexatious, frivolous or repetitive, a hearing must be held to review the licence.

1.3 The Application

1.3.1 The applicant is Sara Green and Jason Green, immediate neighbours, residing at 10 Powell Close, Aylesford, Kent. ME20 7BW. The application which was received on the 2nd August 2019 is shown at **Annex 2**.

1.3.2 A map showing Aylesford Village Club in relation to Sara Green and Jason Green's property is shown in **Annex 3**

1.3.3 The grounds for the review are based on the following licensing objectives:

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

1.3.4 Representations received from statutory consultees:

Fire Safety	No comments received
Trading Standards	No comments received
Social Service	No comments received
Police	No representations of support for the review received
Environmental Health	Comments received for information only. This is shown at Annex 4
Health & Safety	No representations of support for the review received
Planning	No comments received

1.3.5 The licensing department has received the following representations from other persons. These are shown at **Annex 5**.

1.4 Reasons for referral

- 1.4.1 The Licensing Authority must under the Licensing Act 2003 refer any application for a Review Hearing to the Licensing Sub- Committee.
- 1.4.2 The applicant and other persons that have made representations have been invited to attend the hearing.

1.5 Policy Considerations

- 1.5.1 The following provisions of the Secretary of State's Guidance appear to be of particular relevance to this application:

Chapter 2 – The licensing objectives

Chapter 11 – Reviews

Chapter 9 – Determining applications

Chapter 10 – Conditions attached to club premises certificates

- 1.5.2 The following paragraphs of the Councils' Statement of Licensing Policy apply to this application:

Sections 2 – This section sets out the Licensing objectives.

Section 13 – This sections sets out the how a club must operate in order to maintain club qualifying status.

Sections 14 – This section set out the review process for club premises certificates.

1.6 Legal Implications - Determining the application

- 1.6.1 Section 4 of the Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the following Licensing Objectives -

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

- 1.6.2 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to its published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.
- 1.6.3 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.
- 1.6.4 The applicant, the holder of the club premises certificate or any other person who has made a relevant representation in relation to the application all have a right of

appeal to the Magistrates Court against the decision of the Sub Committee. A determination of an application does not have effect until the time allowed for appeal has elapsed, or where an appeal is made, until the appeal has been disposed of (section 88 (11)).

- 1.6.5 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations, against decisions of the Licensing Authority to the Magistrates Court.

1.7 Options Open to the Panel

- 1.7.1 Having regard to the application and any relevant representations, the Licensing Authority must take such of the steps mentioned below as it considers appropriate for the promotion of the licensing objectives (section 88 of the Licensing Act). The steps are

- (a) To modify the conditions of the certificate*;
- (b) To exclude a qualifying club activity from the scope of the certificate;
- (c) To suspend the certificate for a period not exceeding 3 months;
- (d) To withdraw the certificate

*Modification of the conditions of the club premises certificate can include the alteration or omission of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the certificate can take place

1.8 Financial and Value for Money Considerations

- 1.8.1 None unless there is a successful appeal against the Panel decision to the Magistrates' Court. This could result in costs being awarded against the Council.

1.9 Risk Assessment

- 1.9.1 Departure from the Guidance and Policy could lead to an increased risk on an appeal. Similar risks arise if any decision made is not evidence based and proportionate.

1.10 Equality Impact Assessment

- 1.10.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.11 Recommendations

1.11.1 That Members determine the application carefully, considering the application along with any representations made and take such steps as the Panel consider appropriate for the promotion of the Licensing Objectives.

Background papers:

contact: Leeann Leeds
6132

Background papers:

Licensing Act 2003

Licensing Act Guidance

Statement of Licensing Policy

Adrian Stanfield

Director of Central Services and Monitoring Officer