

Licensing Sub-Committee

Premise Licence Determination Hearing

14 April 2011

Report of Head of Safer Communities, Urban & Rural Services

PURPOSE OF REPORT

To provide an outline of an application to for the grant of a Premises Licence in relation to The Old Rectory, Finmere, Buckinghamshire and detail the representations received from Responsible Authorities and Interested Parties that has resulted in the need for a hearing to determine the application.

This report is public

Recommendations

There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- (1) approve the application for the grant of a premises licence as submitted
- (2) reject the application for the grant of premises licence in whole or part
- (3) place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Executive Summary

Introduction

- 1.1 On 25 February 2011, the Licensing Authority received an application for the grant of a premises licence to permit regulated entertainment in the forms of live music and the performance of dance at The Old Rectory, Finmere.
- 1.2 The Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken:
- 1.3 The licensing objectives are:
 - The prevention of crime and disorder.
 - Public safety.

- The prevention of public nuisance.
- The protection of children from harm.

The Guidance issued under Section 182 of the Licensing Act 2003 states:

Each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times. But the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- *the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed premises of entertainment;*
- *the introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet customers' expectations;*
- *greater choice for consumers, including tourists, about where, when and how they spend their leisure time;*
- *the encouragement of more family friendly premises where younger children can be free to go with the family;*
- *the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities.*

- 1.4 For the Licensing Authority to accept a representation as relevant, it must firstly address one or all of the four licensing objectives and the likely effect of the grant of the premises licence upon the promotion of those objectives. The licensing authority must then determine whether or not the representation may be deemed frivolous, vexatious or repetitious and that they have been received within the relevant timescales. The licensing authority can take whole or part of a representation and deem it as relevant, therefore excluding the irrelevant part from the proceedings.
- 1.5 During the consultation period the Licensing Authority received representations from a number of Interested Parties living in the vicinity of the premises. The representations made were both opposing and supporting the application. Full details of all relevant representations received are included at paragraph 2 of this report.
- 1.6 On 1 March 2011, the Licensing Authority received a copy of correspondence sent to the applicant from the Planning Department at Cherwell District Council advising of potential planning permissions that may be required. The correspondence was sent for information only, and is not a formal representation. A copy of the correspondence is attached at Appendix 2.
- 1.7 On 7 March 2011, the Licensing Authority received notification of a request from Rob Lowther, Manager of the Anti-Social Behaviour Team at Cherwell District Council, for further details from the applicant to enable a formal response to be collated. A copy of this request is attached at Appendix 3
- 1.8 A formal representation was received from the Anti-Social Behaviour Team on

22 March 2011. A copy of the representation is attached at Appendix 4.

- 1.9 A response to the application was received by the Licensing Authority from Oxfordshire Fire Service on 23 March 2011 advising that they had no concerns about the application. A copy of their response is attached at Appendix 6.
- 1.10 A response to the application was received by the Licensing Authority from Thames Valley Police on 16 March 2011 advising that they had no concerns about the application. A copy of their response is attached at Appendix 7.

Proposals

- 1.11 The applicant has proposed to provide regulated entertainment in the forms of live music and the performance of dance at the following times:
 - Saturday, 7.30pm to 9.30pm, inclusive
- 1.12 The proposal is for activities to take place outdoors only
- 1.13 The application is for a time limited event and will be valid only for the 25 June 2011

Background Information

- 2.1 The provision of regulated entertainment under the Licensing Act 2003 includes a performance of live music and a performance of dance where the entertainment takes place in the presence of an audience and is provided for the purpose of entertaining that audience.
- 2.2 The Old Rectory at Finmere has applied to provide live music and the performance of dance for a limited time period, between 7.30pm and 9.30pm only on 25 June 2011.
- 2.3 The applicant has provided the following information as part of their application to describe the nature of the premises to be used:

The event will take place in the garden and fields adjoining The Old Rectory, Finmere. A band stand will be erected in the garden and will overlook a field in which the spectators will be seated/stand. The band will change in a tent in the garden. Certain cars will park in other adjoining fields (see traffic plan). Tea and buns will be available for sale for early arrivals.
- 2.4 A full copy of the application, including the traffic management plan and plans of the location to be licensed submitted by the applicant is attached at Appendix 1.
- 2.5 During the consultation period for the application, modifications were made to the event management and traffic plans following advice given to the applicant by Mr Rob Lowther of Cherwell District Council's Anti-Social Behaviour Team. Full details of all these modifications are attached at Appendix 5.

- 2.6 On 11 March 2011, the applicants for the premises licence addressed a meeting of Finmere Parish Council with regard to the nature and logistics of the event to be held on 25 June 2011. A copy of the presentation given by Mr Steve Duffy at the meeting has been supplied by the applicant in support of their application and is attached to this report at Appendix 5.
- 2.7 In addition, the applicant has also supplied copies of an internal brief from the Ministry of Defence explaining the purpose of Armed Forces Day 2011. This briefing note is attached to the report at Appendix 8.
- 2.8 On 25 March 2011, the Licensing Authority received further supporting documents from the applicant. These included an amendment to the Traffic Management Plan, an event risk Assessment and a First Aid Risk Assessment. All three documents are attached respectively at Appendices 9, 10 and 11.
- 2.9 The full Event Plan submitted by the applicant is attached at Appendix 12.
- 2.10 During the consultation period, 223 representations were received in respect of this application. 166 of these representations have been deemed relevant, with 161 of these representations opposing the grant of the licence and 5 in support of the application.
- 2.11 The representations that have been discounted were due to duplication, being unsubstantiated as the author could not be identified or were received out of the relevant timescales.
- 2.12 A full list of all relevant representations opposing the application received by the Licensing Authority during the consultation period is accompanied by the representations in full and attached at Appendix 13.
- 2.13 On 25 March 2011, a petition was received by the Licensing Authority opposing the application. The petition detailed 161 names in total. However, 48 names have been discounted from the total number of representations received for the following reasons:
- 40 of the names upon the petition had already submitted individual representations and therefore their names were discounted from the petition to avoid duplication
 - 3 of the names on the petition had been signed pro persona and not by the individual concerned
 - 5 of the names were illegible and therefore the Licensing Authority was unable to confirm who was making the representations
- 2.14 The petition therefore includes 113 of the 161 relevant representations received opposing the application. The petition is detailed, in full, at Appendix 13.
- 2.15 14 representations were received by the Licensing Authority during the consultation period in support of the application. 9 of the names formed a petition that was illegible and therefore had to be discounted. As a result, 5 relevant representations in support of the application are detailed at Appendix 14.

Key Issues for Consideration/Reasons for Decision and Options

3.1 The Licensing Act 2003 states that all licensing matters must promote the four Licensing Objectives, they are:

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

3.2 Representations received have stated concerns in relation to potential issues in respect of the prevention of public nuisance and the protection of public safety. Paragraph 3.3 details how the applicant intends to promote the four licensing objectives in general in addition to specifically related to promotion of the prevention of public nuisance objective and the promotion of the protection of public safety objective. These measures are in addition to those outlined above and detailed in Appendices 5, 10, 11 and 12.

3.3

Objective	Applicants response
General	The event organisers will provide stewards at the entrances. No alcohol will be sold. A member of the planning committee who will be present throughout is a serving policeman. The majority of the tickets will be pre-sold. The band is a military band and many of the audience will be ex servicemen and women and therefore aware of drug abuse.
Prevention of public nuisance	Litter will be cleared. The premises are some distance from the houses in the village. There will be no food or drink sales at the event except for tea and buns. External areas will be clear by 23.30 as the band will have finished by 22.00. There will be no amplified music.
Protection of Public Safety	The number of attendees will be controlled by numbered ticket sales. First aid will be on site. The event will take place in daylight. Risk assessment of the premises has begun.

3.4 The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations for this case are as follows:

GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003, OCTOBER 2010:

Pages 82 – 85	Sections 10.11 – 10.18	Imposed Conditions, Proportionality, Duplication with other statutory provisions
Page 85	Sections 10.19 – 10.21	Hours of Trading
Pages 21 – 23	Sections 2.19 – 2.31	Public Safety
Pages 23 – 25	Sections 2.32 – 2.40	Public Nuisance

Pages 140 – 144	Annex D	Part 3. Conditions relating to the promotion of public safety
Pages 144 – 145	Annex D	Part 4. Conditions relating to the prevention of public nuisance

CHERWELL DISTRICT COUNCIL STATEMENT OF LICENSING POLICY:

Pages 12-14	Policies LH1 – LH8	Sections 5.1 – 5.7	Licensing Hours
Pages 19-21	Policies LA4 – LA6	Sections 7.3.1 – 7.3.10	General Prevention of Public Nuisance including Addressing Local Concerns and Management and control
Pages 32 -	Policies OS1 – OS18	Sections 8.1.1 – 8.5.3	Operating Schedules including addressing Public Safety and Public Nuisance

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- Option One** Approve the application for the grant of a premises licence as submitted
- Option Two** Reject the application for the grant of premises licence in whole or part
- Option Three** Place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Consultations

Full consultation in accordance with the requirements of the Licensing Act 2003 was carried out for a period of 28 days ending at midnight on 25 March 1011

Implications

- Financial:** There are no financial implications of this report
Comments checked by Denise Taylor, Service Accountant, 01295 221982
- Legal:** The decision must comply with relevant legislation and Council Policy.
All parties have a right of Appeal to the Magistrates Court against the decision
Comments checked by Paul Manning, Solicitor, 01295 221691
- Risk Management:** There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.
Comments checked by Claire Taylor, Corporate Strategy and Performance Manager, 01295 221563

Wards Affected

Fringford Ward

Document Information

Appendix No	Title
1	Application for a premises licence to be granted under the Licensing Act 2003 in respect of The Old Rectory, Finmere
2	Copy of correspondence from Planning Authority
3	Request for information from Rob Lowther, Manager of the Anti-Social Behaviour Team at Cherwell District Council
4	Representation from the Anti-Social Behaviour Team at Cherwell District Council
5	Modifications made to event management and traffic plans during consultation period
6	Response to application from Oxfordshire Fire Service
7	Response to application from Thames Valley Police
8	Defence Internal Brief issued by the Ministry of Defence.
9	Amendment to Traffic Management Plan
10	Risk Assessment
11	First Aid Risk Assessment
12	Event Plan
13	Relevant Representations opposing application
14	Relevant Representations supporting the application
Background Papers	
Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them with them to the meeting.	
Report Author	Claire Bold, Licensing Team Leader
Contact Information	01295 753741 claire.bold@cherwell-dc.gov.uk