
LICENSING APPLICATION – LICENSING ACT 2003

Premises: Golden Lion, 35 North Street, Rochford, SS4 1AS

1 SUMMARY

- 1.1 This report introduces an application for Review of a Premises Licence made under section 51 of the Licensing Act 2003.
- 1.2 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

2 BACKGROUND

- 2.1 The application was given to the Licensing Authority by Martin Howlett, Principal Environmental Health Officer with Rochford District Council, and refers to premises known as Golden Lion, North Street, Rochford.
- 2.2 The grounds for the application are based upon the licensing objectives prescribed under section 4 of the Licensing Act 2003 of: -
 - (a) The prevention of public nuisance
- 2.3 Appendix A consists of a copy of the original application form from Martin Howlett of Environmental Health, with a copy of the supporting witness statement from the Police.

Description of Premises

- 2.4 The premises to which the application relates is an end of terrace building trading as a public house.
- 2.5 The premises are in North Street Rochford in a mixed commercial and residential area. The rear garden of the premises backs onto the small garden area of a sheltered housing unit in Roche Close known as Ormond House.
- 2.6 Appendix B is a map of the area and appendix B1 is an aerial photograph of the area.

Licensing History

- 2.7 The premises have held a premises licence under the Licensing Act 2003 since 2 August 2005, having converted and varied the existing Justice's on-licence under schedule 8 of the Licensing Act 2003.

- 2.8 The current holders of the premises licence are Mr John and Mrs Janet Harmon of 55 Castleton Road, Southend on Sea, SS2 4UF. They have been the holders since 24 September 2009 with Mr Harmon being the designated premises supervisor since that date.
- 2.9 The granted application permits the licensable activities within the times and days shown below: -

Activity	Time/s	Days
Sale by retail of alcohol.	1000 to 0200 hours	Monday to Sunday
Provision of regulated entertainment consisting of recorded music indoors only.	1000 to 0200 hours	Monday to Sunday
Provision of regulated entertainment consisting of live music indoors only.	2000 to 2400 hours 1200 to 1700 hours & 2000 to 2300 hours	Monday to Saturday Sunday

The above terminal hours are extended as follows:-

For Alcohol & Recorded Music an additional hour on Christmas Eve;

For Live Music until 0100 hours on Christmas Eve and Friday and Saturday of Bank Holiday weekends.

For New Year's Eve the hours are from the start on New Year's Eve until the end on New Year's Day.

The opening hours of the premises are from the start of licensable activities until 30 minutes after the end of licensable activities

- 2.8 Appendix C consists of a copy of the premises licence.
- 2.9 On 1 October 2012 the Live Music Act 2012 came into force and this deregulated some aspects of the performance of live music. It is no longer necessary for live music, whether amplified or unamplified, to be licensed at premises that hold a premises licence; a club premises certificate or a place of work between 0800 and 2300 hours before an audience of 200 or less.
- 2.10 As a result, any conditions placed on a premises licence or club premises certificate in respect of live music issued prior to this date are suspended between 0800 to 2300 hours if the audience is 200 or less. In the case of these premises the licence condition 'live music indoors only' is suspended between 0800 to 2300 hours provided the audience is 200 or less.

- 2.11 Section 177A(3) of the Licensing Act 2003 permits a Licensing Authority on application for a review of a licence or certificate to lift the suspension and give renewed effect to an existing condition relating to live music.
- 2.12 Similarly, by Section 177A(4), a Licensing Authority may add a condition relating to live music as if live music were regulated entertainment, and as if that licence or certificate licensed the live music.

Premises History

- 2.13 Prior to September 2012 the Council records since 2009 show one complaint of loud voices from the garden area of the premises in early October 2011.

3 APPLICATION

- 3.1 The application is made in accordance with section 51 of the Licensing Act 2003 on the grounds of the licensing objectives relating to the prevention of public nuisance.
- 3.2 It relates to complaints received in respect of loud music from the garden area of the premises and requests the lifting of the suspension of the condition (referred to in paragraph 2.10) that live music can be played indoors only. If agreed, this would have the effect of prohibiting live and recorded music in the external areas of the premises at all times.

4 REPRESENTATIONS

- 4.1 No representations have been received from any of the other Responsible Authorities.
- 4.2 Two representations have been received from 'other persons', residents in Ormond House, the complainants to Environmental Health. There is one other representation from an 'other person', a North Street resident, in favour of the premises.
- 4.3 Appendix D consists of copies of the representations.
- 4.4 As a result of the representations received from the residents of Ormond House following a mediation meeting with Mr Harmon or his representative Mr Robinson, it was decided to offer proposed conditions to the premises licence, which would permit a limited number of outside live music events.
- 4.5 On 21 November 2012 an email, together with a copy of the proposed conditions, was sent to both Mr Harmon and Mr Robinson.
- 4.6 Appendix E consists of a copy of the proposed conditions.
- 4.7 At 1530 hours on 22 November 2012 a telephone call was received from Mr Robinson rejecting the proposed conditions.

5 NOTICES

- 5.1 Notices advertising the application were placed by the Licensing Authority at or near the premises, at the Council's offices in Rayleigh and Rochford and on the Council's website, as required by paragraph 38 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.
- 5.2 All parties involved have been served with the relevant notices and documentation required by paragraphs 6 and 7 of The Licensing Act 2003 (Hearings) Regulations 2005 and included an explanation of the rights of persons to attend hearings and to be represented, to give evidence and to call witnesses, the consequences of not attending, the procedure to be followed at a hearing, and, for applicants only, a copy of all relevant representations made.
- 5.3 Paragraphs 8 and 9 of those regulations require that parties notify the Licensing Authority, no later than 5 working days before the hearing, of those matters mentioned in paragraph 5.2 above. A pro-forma and pre-paid envelope was included for that purpose with the notices and documentation mentioned paragraph 5.2 above.

6 POLICY CONSIDERATIONS

Legal Provisions

- 6.1 The provisions of the Licensing Act 2003, The Licensing Act 2003 (Hearings) Regulations 2005, Guidance issued under Section 182 of the Licensing Act 2003 and the Statement of Licensing Policy, approved by Full Council for the period 7 January 2011 – 6 January 2014 need to be considered by Members in determining the application.
- 6.2 Section 10 of the Section 182 Guidance provides advice and recommendations concerning best practice in relation to attaching conditions to premises licences and club premises certificates. Paragraphs 10.11 onwards are of particular relevance to Licensing Sub Committees where consideration is given to imposing conditions.

7 OPTIONS

- 7.1 The following options are available to Members:-
- (a) To modify the conditions of the licence;
 - (b) To exclude a licensable activity from the scope of the licence;
 - (c) To remove the Designated Premises Supervisor;
 - (d) To suspend the licence for a period not exceeding 3 months;
 - (e) To revoke the licence.

or

- (f) Subject to paragraphs 11 - 13 of the Licensing Act 2003 (Hearings) Regulations 2005, adjourn the hearing to a specified date or arrange for a hearing to be held on specified additional dates, where Members consider this to be necessary for their consideration of any representations or notice made by a party.

8 RECOMMENDATION

8.1 It is proposed that the Sub-Committee **RESOLVES**

To determine the application, having considered all representations made at the hearing.

Richard Evans
Head of Environmental Services

Background Papers: -

None.

For further information please contact Peter Nellies (Senior Licensing Officer) on:-

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If you would like this report in large print, Braille or another language please contact 01702 318111.