
LICENSING APPLICATION – LICENSING ACT 2003

1 SUMMARY

- 1.1 This report introduces an application for variation of a premises licence made under section 34 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 Orchid Pub Operations Ltd of Park Mill, Burydell Lane, Park Street, St Albans, AL2 2HB and refers to premises known as Rayleigh Lodge, The Chase, Rayleigh, SS6 8RW.
- 2.2 Appendices A and A1 consist of a copy of the original application form and a copy of amendments to the original application.

Description of Premises

- 2.3 The premises to which the application relates are a large brick building that trade as a public house and restaurant.
- 2.4 The premises are situated in a residential area approximately 1 mile to the east of Rayleigh town centre. They have an extensive car park and external area to the front of the building and a large garden with seating to the side and rear of the premises that abuts onto private residences.
- 2.5 Appendix B consists of a copy of the plan of the premises.

Current Licence

- 2.6 The current licence was granted on 12 April 2007.
- 2.7 In brief, the current licence allows:-
- (a) all authorised licensable activities to be carried out between the hours of 1000 and midnight daily. Those hours are extended for prescribed public holidays,
 - (b) late night refreshment to be provided for an additional 30 minutes at the end of those hours,
 - (c) the use of the garden area until 2200 hours daily.
- 2.8 Appendix C consists of a copy of the premises licence.

3 APPLICATION

- 3.1 The application is made in accordance with section 34 and schedule 8, part 1, paragraph 7 of the Licensing Act 2003 and The Licensing Act 2003 (Premises licence and club premises certificates) Regulations 2005.
- 3.2 The purpose of the application is to remove the condition “Use of the garden area to cease at 2200 hours” (paragraph 3, part 3 of the application) which applies to areas 1 and 2 on the attached plan.
- 3.3 The application is intended:-
- (a) to address the restrictions arising from the implementation of the smoking ban in public places on 1 July 2007, by allowing customers to use the garden for smoking, and
 - (b) to extend the hours of use of the garden generally.
- 3.4 There are no other proposed changes to the operation of the premises.

Amendments to the Application

- 3.5 Following discussions between the applicant and Essex Police, the applicant agreed to amend the wording of paragraph 3, part 3 of the application to:-
- “The outside area will only be used after 11.00 pm at night for customers who wish to smoke. The outside area as agreed on plan no 2119/11 of March 2007.”
- 3.6 Whilst this amendment was intended to restrict the use of those areas marked on the plan to people who wished to smoke, this is ambiguous, as it would also appear to enable them to consume food and drink.
- 3.7 It is suggested that should the Sub-Committee be minded to grant the amended application it imposes a specific condition that prohibits the consumption of food or drink in the garden area after 2300 hours.

4 REPRESENTATIONS

- 4.1 There has been one representation from a Responsible Authority. The Environmental Protection Unit of Rochford District Council has submitted a representation against extending the use of the garden area beyond 2200 hours for any purpose, based upon the licensing objective of preventing public nuisance.
- 4.2 The representation recommends that the Sub-Committee considers imposing the following condition, should the application be granted:-
- “The use of the external area by patrons for the consumption of food and beverages shall cease no later than 2200 hours on any given day and shall recommence no sooner than 0600 hours the following day.”

4.3 There have been 8 representations from Interested Parties in respect of their concern for the likelihood of increased noise disturbance should the restrictions on the use of the garden be removed or extended.

4.4 Appendix D consists of a copy of the representations received.

5 NOTICES

5.1 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.

5.2 The notices and documentation 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 the 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 in paragraph 5.2 above.

5.4 At the time of drafting this report, there has been no response from any of the parties.

5.5 It is not known whether or not the applicants will be represented.

6 POLICY CONSIDERATIONS

Legal Provisions

6.1 The provisions of Licensing Act 2003, The Licensing Act 2003 (Hearings) Regulations 2005, Guidance issued under Section 182 Licensing Act 2003 and the Statement of Licensing Policy, approved by Full Council for the period 7 January 2005 - 6 January 2008 need to be considered by Members in determining the application.

7 OPTIONS

7.1 The following options are available to Members:-

(a) Grant the application subject to such conditions as are consistent with the operating schedule, modified to such extent as Members consider necessary for the promotion of the licensing objectives.

(b) Exclude from the scope of the licence any of the licensable activities to which the application relates.

(c) Reject the application.

- (d) 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 Kevin Doyland on: -

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If you would like this report in large print, braille or another language please contact 01702 546366.