

Please note that by law this meeting can be filmed, audio-recorded, photographed or reported electronically by the use of social media by anyone attending. This does not apply to any part of the meeting that is held in private session.

Please ask for:
Gurdeep Paddan

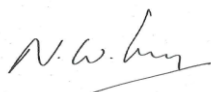
Please note papers printed on
lilac are confidential

31 October 2019

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL LICENSING SUB-COMMITTEE to be held on Monday 11 November 2019 at 2.00pm in the Chestnut Board Room, Campus East, Welwyn Garden City, Herts, AL8 6AE.

Yours faithfully



Corporate Director
Public Protection, Planning and Governance

A G E N D A
PART 1

PROCEDURE

1. **APPOINTMENT OF CHAIRMAN**

To appoint a Chairman of the Sub-Committee for the meeting.

2. **DECLARATIONS OF INTERESTS BY MEMBERS**

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

3. **APPLICATION FOR A PREMISES LICENCE FOR LITTLE HEATH PRIMARY SCHOOL, SCHOOL ROAD, LITTLE HEATH, POTTERS BAR, HERTS, EN6 1JW**
(Pages 5 - 26)

Report of the Corporate Director (Public Protection, Planning and Governance) to consider an application for a premises licence.

Circulation: Councillors B.Fitzsimon (Chairman), J.Cragg, G.Hayes

Officers Principal Litigation Officer (A.Byrne)
 Environmental Health Team Leader (J.Hollingworth-Biggs)
 Licencing Officer (K.Payne)
 Licensing Enforcement Technician (D.Pennyfather)
 Governance Services Officer (Gurdip Paddan)

Press and Public (except Confidential Items)

If you require any further information about this Agenda please contact Gurdip Paddan, Governance Services on 01707 357467 or email – democracy@welhat.gov.uk

Agenda Annex

LICENSING AND REGULATED ENTERTAINMENT HEARINGS PROCEDURE

This is the procedure that the Council has adopted under the Licensing Act 2003 (Hearings) Regulations 2005 for all of its licensing hearings to achieve a consistent approach. The hearing is started by the Chairman stating that the Sub-Committee is considering. It is then explained to all the parties that this is a mixed quasi judicial and administrative function. The hearing will take the form of a discussion led by the authority. The strict rules of evidence will not apply although the rules will be observed to a great extent because this is considered to be the best way of presenting the evidence. Documentary or other information produced at the hearing may be taken into account with the consent of all the parties.

All parties will be given an equal maximum period of time to exercise their rights to make representations and provide supporting information to the Sub-Committee as provided for in this procedure. The Chairman will ask those appearing to speak concisely and only on the points that have been raised in the representations submitted. If several representations have been received on similar lines the parties will be invited to appoint a spokesperson. The Sub-Committee will seek to avoid hearing repetitious representations.

- (1) Once all the parties are present in the room and seated the Sub-Committee will enter and the hearing will be convened.
- (2) The Chairman will introduce the Sub-Committee and the Officers serving the Sub-Committee.
- (3) The applicant and/or his representative should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (4) The objectors and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (5) The responsible authorities and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (6) The Chairman will invite the Licensing Officer to present his report.
- (7) The applicant may then state their case, calling any witnesses they consider necessary, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (8) With the Chairman's permission members may ask the applicant or their witnesses questions. These questions should be for further information or clarification.

- (9) The objectors then state their case calling any witnesses, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (10) The members may ask the objectors or their witnesses questions. These questions should be for further information or clarification.
- (11) The objectors are then asked if they wish to make a final address to the Sub-Committee.
- (12) The applicant or representative is then given the same opportunity to address the Sub-Committee.
- (13) The Sub-Committee will then retire to consider the representations which have been made and to make its decision. The Sub-Committee will be accompanied by the Legal Adviser and Committee Manager.
- (14) A decision is then taken.
- (15) The Sub-Committee will then return to inform all the parties of the decision. Notice of the determination will be given in writing after the hearing. For certain applications the determination will be made within five working days of the hearing.

If any legal clarification is needed during the Sub-Committee's deliberations, the Legal Adviser will return to inform all the parties of the point considered, together with the advice given and will invite comment on that.

COMMENTS

Should the Sub-Committee decide to grant a licence it may only add conditions or restrictions which are necessary for promoting the licensing objectives and which do not duplicate other statutory requirements. However, the powers to add conditions are confined by the fact that any condition or restriction must be reasonable. The Courts have ruled that a public body in a privileged position of being able to exercise its discretion in dealing with applications for licences and consents of various kinds, when coming to a decision, must exercise that discretion reasonably and fairly and relate it to the subject concerned. A public body is not at liberty to use its powers for an ulterior object, that is one which is not within the ambit or intended purpose of the statutory provision under which the power is exercised however desirable that object may seem in the public interest.

The Sub-Committee will disregard any information which is not relevant to the matter being considered.

The Sub-Committee may exclude all the parties and the public from a hearing or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing.

The Sub-Committee may require any person attending a hearing who in its opinion is behaving in a disruptive manner to leave the hearing.

WELWYN HATFIELD COUNCIL
LICENSING SUB COMMITTEE
REPORT OF THE LICENSING OFFICER
REPORT TO LICENSING SUB COMMITTEE

BROOKMANS PARK AND LITTLE HEATH WARD

**GRANT OF A PREMISES LICENCE FOR LITTLE HEATH PRIMARY SCHOOL
SCHOOL ROAD LITTLE HEATH POTTERS BAR HERTS EN6 1JW**

1 Summary of the Application

Premises Licence Holder(s)
LITTLE HEATH PTA
Address of Premises
SCHOOL ROAD POTTERS BAR HERTS EN6 1JW

This committee report contains an application for the grant of a licence for Little heath Primary School. A copy of the premises plan is shown in appendix A.

The application is contained in Appendix B to this report

Summary of Variation Received

An application has been received from the Applicant under the Licensing Act 2003 for a licence to show films, and to sell alcohol at events to raise funds for the school. The hours applied for are 12.00- 23.00 Monday to Sunday.

Schedule of Hours at Appendix C

1.1 Unresolved representations

There is one representation from a North Mymms Parish Council who felt that a licence that encompasses 11 hours a day for 7 days a week is excessive if the school only require it for a few events. The representation is at appendix D.

Resolved representations

The representation has not been successfully mediated prior to this hearing.

Little heath school did respond to the representation but North Mymms Parish Council were not satisfied with their response. Appendix E.

No observations have been received from responsible authorities regarding this application.

2 Background

The application submitted is for the grant of a premise licence by Little heath School PTA. The school is situated at the end of a no through road with residential properties nearby. The school is made up of two buildings with playgrounds and playing fields. Alcohol will be sold within the buildings and on the playgrounds during events.

3 Explanation

3.1 The committee is obliged to determine this application for the grant of a premises licence for Little heath school. In determining the application the subcommittee must take account of the councils duty to promote the statutory licensing objectives namely:

- A) The prevention of Crime and Disorder
- B) Public Safety
- C) The Prevention of Public Nuisance
- D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

4 Licensing Policy

4.1 The sub committee will also wish to be aware of the Guidance issued under section 182 of the licensing Act 2003.

Guidance 9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

Guidance 9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Guidance 9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters.

As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business.

Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Guidance 10.13

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

- 4.2 The sub committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes

Licensing Hours

- 27.1 Licensing hours should not inhibit the development of a thriving safe night-time local economy which is important for investment and employment locally and attractive to domestic and international tourists. We will expect applicants to consider whether conditions are necessary for applications in areas which have denser residential accommodation.
- 27.2 We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.
- 27.3 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.
- 27.6 The Council operates an out of hours noise service based on the assessment of need. The nature and number of complaints are recorded and may be used when compiling reports for our licensing committee and sub committees.
- 27.7 Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place.

5 Recommendation

5.1 The committee must have regard to the variation application made and the evidence it hears. The sub-committee is therefore asked to determine the application.

5.2 In determining the application, the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:

- a) To grant the licence as proposed.
- b) To modify the conditions of the licence by altering or omitting or adding to them (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added).
- c) To exclude any of the licensable activities to which the application relates.
- d) To refuse to specify a person in the licence as the premises supervisor.
- b) To reject the whole of the application or part of it.

7 Appendices

- a. Plan
- b. Premises Licence Application,
- c. Schedule of times and activities
- d. Representation received.
- e. Response to representation.

Kate Payne, Licensing Team Leader

Date – 28th October 2019

By virtue of paragraph(s) (Paragraph Type 2) of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) (Paragraph Type 2) of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

Section 14(2) of the Licensing Act 2003 (Hearings) Regulations provides the grounds for exemption

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) (Paragraph Type 2) of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) (Paragraph Type 2) of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank