

LICENSING PANEL SUB-COMMITTEE

WEDNESDAY, 17TH APRIL, 2019

At 10.00 am

in the

COUNCIL CHAMBER - GUILDHALL WINDSOR

SUPPLEMENTARY AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
5.	<u>CONSIDERATION OF APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003</u> To consider an application for a new premises licence under The Licensing Act 2003 for Field within Rinders Farm, Fifield, Maidenhead, SL6 2NS.	3 - 10

This page is intentionally left blank

APPLICATION FOR A PREMISES LICENCE AT FIELD WITHIN RINDERS FARM

ADVICE

1. INTRODUCTION

- 1.1. You have asked us to advise you on an application for a premises licence at the Field within Rinders Farm (the "Application"). Specifically, you have asked us to highlight any aspects of the application that fail to comply with the four licensing objectives set out in the Licensing Act 2003.
- 1.2. The application is for a premises licence to hold a maximum of 5 events in any one calendar year for a maximum of 3000 people to involve one or more of the following regulated entertainment activities:
 - a. plays;
 - b. films;
 - c. live music;
 - d. recorded music;
 - e. performances of dance; and
 - f. the supply of alcohol.
- 1.3. It is proposed, that activities A to E, would take place during the hours of 10:00 to 23:00 on Fridays and Saturdays and 10:00 to 22:00 on Sundays. The supply of alcohol would be during the hours of 11:00 to 23:00 on Fridays and Saturdays and 11:00 to 22:00 on Sundays.
- 1.4. The applicant intends to give the Royal Borough of Windsor and Maidenhead (the "Council") at least 28 days' notice of each event and has set out how he plans to promote the licensing objectives in the application form at Part M.

2. THE APPLICATION

- 2.1. The application must comply with the requirements of the Licensing Act 2003 as follows, it must:
 - a. include an operating schedule, plan of the premises (which must comply with prescribed requirements) and a consent form signed by the person who will be the designated premises supervisor (where the application is seeking a premises licence for supply of alcohol, as is the case here);
 - b. include an application form in the prescribed form;
 - c. be accompanied with the appropriate fee; and
 - d. it must be advertised by:
 - i. displaying a notice pale blue in colour, at least A4 in size with a font of at least 16 points at the premises (and every 50 metres along the boundary of the premises if it is more than 50 square metres in size) for no less than 28 days from the day after the application has been submitted; and

- ii. publishing a notice in the local newspaper, newsletter or similar at least once in the 10 working days after the application has been submitted.
- 2.2. You should check that the application complies with these requirements. I do not have sufficient information or details to confirm whether all of the above requirements have been complied with but can confirm that there is an operating schedule and an application form in the prescribed form.

3. DETERMINING THE APPLICATION

- 3.1. Generally, unless relevant representations are made the Council must grant a premises licence subject only to conditions that are consistent with the applicant's operating schedule and mandatory conditions set out in the Licensing Act 2003.
- 3.2. If relevant representations are made (as I understand to be the case here), the Council must hold a hearing (unless it is agreed to be unnecessary) and consider the representations that have been made.
- 3.3. Following the hearing, the Council may decide to either:
 - a. grant a premises licence subject to conditions;
 - b. exclude certain licensable activities from the scope of the licence;
 - c. refuse to specify a person in the licence as a premises supervisor; or
 - d. reject the application.
- 3.4. The Council must decide which of these 4 steps is the most appropriate for the promotion of the licensing objectives. It is likely therefore that the Council will only consider rejecting the application if issues which fail to promote the licensing objective cannot be appropriately addressed either by limiting the scope of the premises licence or by attaching conditions to it.

4. THE LICENSING OBJECTIVES

- 4.1. The four licensing objectives are:
 - a. the prevention of crime and disorder;
 - b. public safety;
 - c. the prevention of public nuisance; and
 - d. the protection of children from harm.
- 4.2. As stated above, the Application must contain an operating schedule. In that operating schedule, the applicant should set out the steps that will be taken to ensure the licensing objectives are promoted. The Council may then add these steps as conditions to the premises licence.
- 4.3. I have reviewed the Application having regard to the licensing objectives. In my view, the operating schedule that has been prepared by the applicant is deficient. It does not contain sufficient detail of the policies he would put in place to promote the licensing objectives. Instead, he refers to management plans that will be sent to the Safety Advisory Group 28 days prior to the event for their comment and provides minimal details of some policies such as 'Think 21' or employing SIA marshals. It lacks detail and suggests that the applicant has not given sufficient thought to the management of the events. Further sending a management plan to the Safety Advisory Group 28 days prior to an event would not give sufficient time

to consider whether the plan is appropriate and address any concerns. The phrase 'for their comment' also suggests that the Safety Advisory Group would not be able to amend the management plan if it was also deficient.

- 4.4. The operating schedule should set out full details of those management plans and the policies that would be put in place to address the licensing objectives. Below, I have set out the issues you would expect to be addressed for each licensing objective:
- a. in the case of preventing crime and disorder you would expect the applicant to address matters such as under-age sales, problems associated with drunkenness, prevention of illegal drug use and anti-social behaviour. The operating schedule only touches on these issues. Whilst the applicant states that a 'Think 21' policy will be employed there are no details as to how this will be managed such as how staff will be trained on the policy and what forms of ID will be acceptable. Again, the applicant states that SIA marshals will be at the event but does not explain how they will prevent crime and disorder. There are also many aspects which have not been touched upon. For example, there are no measures to address binge drinking, no drugs policy, no details of staff training in crime prevention measures, no procedures for banning customers, no queuing policies etc.;
 - b. in the case of public safety you would expect the applicant to address matters such as fire safety, emergency procedures, fire equipment, procedures to control access to and egress from the premises, crowd safety measures, safety of food, welfare of staff etc. Again, the operating schedule does not address these issues sufficiently. It merely states that the capacity of the event will be managed to ensure there is no overcrowding and that fire and risk assessments and emergency plans will be put in place for each event. The applicant has supplied the risk and fire assessments with this application but I cannot see any details of the emergency plan or details of how crowd capacity will be managed. It also lacks details of food safety, how access and egress to the premises will be managed etc.
 - c. in the case of preventing public nuisance you would expect the applicant to address matters such as noise, light, odour, litter and anti-social behaviour. Again, the measures included in the operating schedule lack detail. The applicant says that he will give advance notice to neighbours but does not provide details of what the notice will be and when it will be given. He also states that there will be provision for litter clearance but does not say what these provisions are. The same for the traffic management plan. It is not clear how traffic will be managed; and
 - d. in the case of protecting children from harm you would expect the application to identify any particular issues which are likely to cause concern in relation to children and then set out what steps will be taken to deal with these identified concerns. The applicant has only identified issues of children being lost and served alcohol under-age but, again, has not provided sufficient detail of how these issues will be dealt with. There are no details of how the 'think 21' policy will be implemented or what the lost child procedure is. I address issues of child safety further below.

- 4.5. In addition to those failures identified in the operating schedule, I have noted three key issues that fail to promote the licensing objective and so should have specifically been addressed but have not. These, along with the deficiencies in the operating schedule, should be raised at the panel hearing. I deal with the three key issues separately below.

Based on the deficiencies in the operating schedule and the failure to address the three key issues discussed below, I think the Council should reject the application.

5. THREE KEY ISSUES

Transport

- 5.1. It is proposed that access to and egress from the premises will be via a single track bridleway along Green Lane and Gays Lane off the B3024.
- 5.2. It is not clear whether there is any public transport servicing the premises. If there is public transport I suspect it will be limited in which case it is likely the main form of travel to and from the premises will be vehicles. With a proposed capacity of 3000 people it is highly likely there will be a significant influx in the amount of traffic along the B3024, Green Lane and Gays Lane on the days a festival is held. This influx in traffic is likely to create long queues and delays which could create a public nuisance especially for residents living in the area who could be caught up in the delays when trying to access or leave their property.
- 5.3. Public safety could also be put at risk. In your written representation you state that Green Lane is a public right of way which is frequently used by walkers and horse riders. On the days that a festival is held, these walkers and horse riders will be sharing the use of Green Lane with a significant number of cars. As Green Lane is a single track bridleway there is the risk that a pedestrian or horse rider could become injured.
- 5.4. These transport issues should be addressed in the panel hearing. Careful thought needs to be given to whether there are any traffic measures that could be implemented to prevent a public nuisance being caused or public safety being put at risk. This should have been addressed in the operating schedule but it appears that the applicant has not considered how they will manage the traffic to and from the premises. It is therefore not clear whether the traffic issues can be appropriately managed and promote the licensing objectives. Measures that could have been considered include, but are not limited to:
- a. hiring stewards to direct traffic along Green Lane to the car park to ensure attendees are parked as soon as possible and ensure walkers and horse riders are able to continue safely using the public right of way;
 - b. organising a courtesy shuttle bus for guests to reduce the amount of traffic on the road;
 - c. installing road signs to direct traffic along a specific route;
 - d. putting up notices along Green Lane to warn walkers of the event to reduce the amount of pedestrian and horse traffic on the day;

- e. obtaining a traffic management order to install temporary traffic lights to manage traffic at the junction between B3024 and Green Lane; and
 - f. having designated drop-off and collection points to avoid vehicles stopping along the highway.
- 5.5. It could also be argued that the lack of transport measures could result in an increase in crime and disorder. As part of the Application, the applicant is seeking a premises licence to supply alcohol from the start of the festival until it closes. As the main form of transport appears to be by vehicle there is a risk of drink driving occurring.
- 5.6. The operating schedule should have included measures to deal with the consumption of alcohol and preventing drink driving. For example, all attendees could be issued with and required to wear a wristband. The colour of the wristband could vary depending on whether the attendee was under 18 or over 18 and whether they were a driver or not. These wristbands would then allow bar staff to determine whether a person should be served alcohol. Those with a wristband indicating they are under 18 or a driver could then be refused service.

Noise

- 5.7. The premises is located within close proximity to residential properties. The Application is seeking a premises licence for, amongst other things, live music, recorded music and films all of which is likely to create significant noise (although it is not clear exactly how much noise will be created) that could disturb residential neighbours. There will also be additional noise created by attendees whilst at the event and leaving it. This has the potential to create a public nuisance.
- 5.8. The applicant has submitted a noise management plan with the Application which goes some way to addressing the potential nuisance that could be created by the noise. The applicant is proposing that sound levels be monitored from two key areas of the premises and that when sound levels are over 107 decibels the volume will be reduced. I am not an expert in noise levels so cannot advise on whether 107 decibels is acceptable however I think the noise management plan is sensible and goes some way to addressing the issue of noise nuisance.
- 5.9. However, I think noise management could have been addressed further in the operating schedule. Additional measures could have been proposed such as erecting signs asking attendees to be quiet and respect neighbours, using a sound limiter which prevents devices from playing sound above a certain level, having marshals man the exits at the premises to ensure attendees leave quietly.

Protection of children

- 5.10. The Application provides that a dedicated children's area will be provided on the premises. According to the current plan of the premises this dedicated children's area will be located behind the bar. Consideration will need to be given to how children under the age of 18 can be protected from harm when in close proximity to the bar. There is an increased risk of under 18s getting access to the bar and with children being confronted with intoxicated attendees. The children's area is also in close proximity to the car park and so unless appropriate measures are put

in place there is a risk that children could wander onto the car park and become injured.

- 5.11. This issue could be addressed by relocating the children's area or the bar so that they are not in close proximity to one another. If the children's area was moved elsewhere this could also resolve the issue of any child wandering onto the car park and getting injured.
- 5.12. Again, the issue of protecting children from harm should have been addressed in the operating schedule. For example, the issue of wristbands (as suggested above) would be able to ensure those children do not get served alcohol. Increased levels of security staff around the bar and close to the children's area would ensure that any attendees who become intoxicated or behave inappropriately are removed from the premises and fencing around the children's area would ensure children cannot access the car park.

Other issues

- 5.13. There are other aspects of the events that should have been addressed by the applicant which includes, but is not limited to:
- a. crowd safety – how will the applicant ensure that only a safe number of attendees are allowed to access the premises. Will there be staff manning the entrance to collect tickets and count the number of attendees. Will the premises be fenced off to ensure those without a ticket cannot enter etc.;
 - b. emergency procedures – what will happen if there is an emergency (whether fire or medical etc.). Will there be first aiders on the premises, will there be a direct contact link with the emergency services, how will they ensure emergency services can access the premises in a timely fashion etc.;
 - c. responsible sale of alcohol- will there be any drinks promotions, how will they manage binge drinking and intoxicated guests, how will they implement the Think 21 policy, will they provide staff with appropriate training etc.;
 - d. welfare of employees – what staff training will be provided, how will they ensure staff are not abused by intoxicated guests or otherwise, have they considered health and safety aspects of the job etc.;
 - e. ticket sales and conditions of entry – how are ticket sales managed and are there any conditions to entry for example will guests who turn up intoxicated be refused etc.;
 - f. provision of first aid and accident reporting procedures – will first aid be provided and how, are first aiders appropriately trained, how will accidents be reported etc.;
 - g. the safety of food – what procedures do they have to check that any food vendors are complying with all relevant food safety and hygiene regulations etc.;
 - h. the control of litter – how will litter be managed, will there be bins, how many bins will there be, will there be a litter collection team and if so how will they approach collecting litter etc.;
 - i. sanitation and disposal of waste – how will waste be disposed of, will there be portaloos (or similar) and if so, do they have sufficient numbers for the amount of attendees etc.;
 - j. safety of structures at the event etc. – how will they ensure the structures such as stages and the bar etc. are safely erected, what measures will they take to ensure attendees do not injure themselves on any equipment etc.

6. SUMMARY

- 6.1. The operating schedule is deficient. It provides very little detail on how the events will be managed to ensure the licensing objectives are promoted. I have raised three key areas where the licensing objectives would not be promoted without the introduction of appropriate policies.
- 6.2. The deficiencies in the operating schedule that I have set out above at paragraphs 4.3 and 4.4 should be raised at the panel hearing. Issues in respect of public safety, public nuisance and the protection of children that could be caused by the lack of transport measures, noise and risks to children (as highlighted above) should also be raised at the panel hearing.
- 6.3. Based on these points it is my view, that the Council should reject the application.

**TOZERS LLP
MARCH 2019**

This page is intentionally left blank