


Agenda Item No:	3	
Committee:	LICENSING	
Date:	28 OCTOBER 2019	
Report Title:	DETERMINATION OF AN APPLICATION FOR A VARIATION TO A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 – THE SPORTSMAN, ELM	

1 Purpose / Summary

- To consider an application for a variation to a premises licence in respect of The Sportsman, Main Road, Elm, Wisbech PE14 0AG.

2 Key issues

- There has been an application submitted for the variation of a Premises Licence.
- It is the responsibility of all premises licence holders to demonstrate that suitable and sufficient measures are undertaken to uphold the four Licensing Objectives of the Licensing Act 2003.
- Relevant representations have been received regarding this application from 'Any other Persons' (Local Residents).
- There is a requirement to hold a hearing to determine the application for the variation of a premises licence.

3 Recommendations

- That the committee determines the application, having regard for the evidence presented by the parties to the hearing, the relevant legislation and guidance applicable to this process and the content of this report.

Wards Affected	Elm
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Sam Clark, Portfolio Holder with responsibilities for Licensing
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Background Paper(s)	Licensing Act 2003 Section 182 Guidance to the Licensing Act 2003 The Licensing Act (Hearings) Regulations 2005 Fenland District Council's Statement of Licensing Policy 2016 - 2021

4 Background / introduction

- 4.1 The Premises Licence Holder of The Sportsman, Main Road, Elm is held in the company name Elmsport Limited with a registered address of The Boathouse, Harbour Square, Wisbech.
- 4.2 The Designated Premises Supervisor responsible for alcohol sales is Mrs Jacqui Wadsley, her Personal Licence No. PERS0181 and has been issued by Fenland District Council.
- 4.3 The premises licence was transferred to the new owners Elmsport Limited during an application made in June 2017.
- 4.4 A copy of the current Premises Licence and plan can be seen at APPENDIX B
- 4.5 In September 2019 an application was received to vary the current licence, the below table highlights the original application received and the requested amendments:

Licensable Activity	Current Licence	Variation Application
Live Music Indoors/Outdoors	The plan does not reflect any outdoor area and therefore the music can only be played indoors.	The application includes an outdoor area (beer garden) at the front of the premises and an outdoor amenity area at the rear of the premises (currently being developed). There has been no increase in the timings from the existing licence.
Sale of Alcohol	Sunday - Wednesday 11:00 - 23:00 Thursday - Saturday 11:00 - 01:00	Sunday - Wednesday 08:00 - 23:00 Thursday - Saturday 08:00 - 01:00
Opening Hours (Please note this is not a licensable activity)	Monday - Wednesday 11:00 - 23:30 Thursday - Saturday 11:00 - 01:30 Sunday 10:00 - 23:30	Sunday - Thursday 08:00 - 23:30 Thursday - Saturday 08:00 - 01:30
Annex 2 Conditions	Removal of conditions: 1,2,3,4,5,6,7,9,10, 11,12,13 This was to ensure all old conditions	Additional conditions offered: a) Challenge 25 to be adopted b) All staff training to be fully documented and updated every 6 months

	removed and brought into line with existing legislation	<ul style="list-style-type: none"> c) Staff to be trained in conflict situations d) Fully recordable HD CCTV to be in operation 24 hours, 7 days a week e) CCTV to be made available to Police and Authorised Officers on request f) CCTV to be made available in a transportable media format g) Staff to carry out and record head count to ensure no overcrowding h) Notice to be displayed requesting patrons to leave quietly.
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A copy of the Variation application and amended plan can be seen at APPENDIX C and APPENDIX D

4.6 In accordance with the provisions of the Licensing Act 2003, the applicant has completed the statutory 28 day consultation period by displaying a copy of the notice on blue coloured paper and an advert in the local newspaper.

5 Considerations

5.1 The application was submitted electronically and therefore it was the responsibility of the Local Authority to serve this application to all the Responsible Authorities.

(a) Cambridgeshire Constabulary	No representation
(b) Cambridgeshire Fire & Rescue	No representation
(c) Public Health – CCC	No representation
(d) Environmental Health	No representation
(e) Health & Safety	No representation
(f) Safeguarding & Standards Unit – Children Services	No representation
(g) Development Services - Planning	No representation
(h) Licensing	No representation
(i) Trading Standards	No representation
(j) Any Other Persons	Representations

5.2 During the consultation period 35 objections were received from 'Any other Persons' (local residents), some of the points raised were not a relevant representation as they included:

- Parking outside the premises
- Concerns regarding the trees at the rear of the premises.

5.3 The Licensing Act 2003 encourages discussion between persons making the applications and those serving objections with the aim of resolving issues of concern, to strike the balance between enabling the applicant to operate his/her premises in a manner that meets his/her business needs/aspirations and the necessary protection of the community.

5.4 On receiving these objections, contact was made with the applicant to advise them of the community concerns and if there was any chance of mediation.

The applicant was happy for the Council to mediate and during this time the applicant offered the below amendments and additional condition:

- 1- We will remove from our premises plan the rear amenity garden area.
- 2- Front beer garden 'live' music events to be limited to 6 per year with a cut off time of 7.30 pm
- We wish to express that although the premises has applied for the sales of alcohol to be earlier, this is not planned to be a regular occurrence, it is merely to accommodate sporting events or special occasions.
- We have no desire to regularise early opening or indeed extend our trading hours in the evening, as you know we already trade fewer hours than our existing license allows. All we want is to be able to respond to the needs of our customers whilst respecting the harmony of our nearest neighbours.'

5.5 As part of the mediation process, the Licensing Authority made contact with the interested persons logging an objection updating them of the revised application and additional condition.

5.6 Subsequently this has reduced the number of persons wishing to object and 13 persons have formally withdrawn their objection.

5.7 There are still 22 objections received with regards to this application. A copy of the objections can be seen at APPENDIX E.

5.8 The objections received fall mainly with the licensing objective of Public Nuisance but also makes reference to the Protection of Children from Harm.

5.9 Any objections received that mention parking or other concerns not relevant to the licensing objectives, the interested party has been made aware these comments will not be taken into account within their representation.

6 Community impact

6.1 The Act gives greater freedom to operators and users of premises, which is balanced by greater responsibilities for licensees and tempered by strengthened protection for the community.

6.2 The Licensing Act 2003 seeks to provide public protection by way of the four licensing objectives.

7 Conclusions

7.1 In undertaking its statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

7.2 When determining an application for a variation to a premises licence, due regard should be given to the Council's Licensing Policy including the Cumulative Impact Policy (if applicable) and the Secretary of State's Guidance section 182.

7.3 The committee in its determination can take one or more of the following steps as it considers appropriate for the promotion of the licensing objectives:

i) to grant the variation subject to:

such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the four licensing objectives, and any mandatory condition which must be included in the licence;

j) reject the variation application.

7.4 The hearing will be conducted in accordance with the approved procedures and can be seen at APPENDIX A to this report.

APPENDIX A - Hearing Procedures

APPENDIX B - Current Licence

APPENDIX C - Variation Application

APPENDIX D - Amended Plan

APPENDIX E - Objections Received