



East Northamptonshire Council

Licensing Panel - 30 October 2009

Review of the Club Premises Certificate and Premises Licence for Irthlingborough Town Band Club, Victoria Street, Irthlingborough

Summary

Review of the Club Premises Certificate and Premises Licence for the Irthlingborough Town Band Club, Irthlingborough

Attachment(s)

- Appendix 1 - Club Premises Certificate and Premises Licence
 - Appendix 2 - Map of Area and Premises
 - Appendix 3 - Request for review from Northamptonshire Police
 - Appendix 4 - Representations
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1.0 Summary

- 1.1 An application for the review of the Club Premises Certificate and Premises Licence at the Irthlingborough Town Band Club was received from Northamptonshire Police. The appropriate Blue Notice was displayed at the Irthlingborough Town Band Club, on the Council Notice Board and on the Council's website.

2.0 Application for Review

The full grounds for the review are attached at Appendix 1 of this report. An outline is included below: -

This review is being called for under the Crime and Disorder, Public Safety and Protection of Children from harm licensing objectives. The grounds for this review stem from a combination of continuing levels of reported incidents and complaints from the public, together with evidence of a failure on the management to run the premises in a fair and lawful manner.

3.0 Consultations

- 3.1 The following Consultations have been undertaken:

Child Protection	No Representation
Fire and Rescue Service	Representation
Trading Standards	No Representation
Revenue and Customs	No Representation
Town Council	No Representation
Environmental Services	Representation
Planning	No Representation
Public	One Representation
Police	Review Applicant

- 3.2 The representation from Northamptonshire Fire and Rescue is made under the public safety licensing objective. The premises were inspected on 5 August 2009 and a number of fire safety deficiencies were recorded, these were management based deficiencies and show that the premises were poorly managed with regards to fire safety. The full representation is at Appendix 4a.

3.3 The representation from Environmental Services is made under the public safety objective. The premises were inspected for health and safety on 30 September 2009; there were a number of statutory requirements made as a result of the visit that should be taken into account when considering this review. The full representation is at Appendix 4b.

3.4 The representation received from the public is in support of the Irthingborough Town Band Club and states they have not heard of any problems associated with the Club and have witnessed the premises enforce the rules around alcohol sales without ID, stopping serving those who have had too much to drink and asking people not to cause a nuisance as patrons leave. The full representation is at Appendix 4c.

4.0 Determination

4.1 The Panel must carry out its functions to promote the licensing objectives having regard to:

- Licensing Policy
- S182 Guidance

4.2 The Act states that, following a Hearing, the Panel may take the following actions if they deem them necessary to promote the licensing objectives:

- No action is necessary
- To modify the Certificate and Licence by adding conditions (such as reducing hours) necessary for the promotion of the licensing objectives
- Exclude a licensable activity from the scope of the Certificate and Licence
- Suspend the Certificate and Licence for up to three months
- Revoke the Certificate and Licence
- Remove the Designated Premises Supervisor

5.0 Policy Considerations

This section highlights the elements of the licensing policy that are most relevant with respect to this application. This is not exhaustive and the policy should be considered fully prior to making decisions with respect to applications:-

2.13 – In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions relevant to the operating plan will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are necessary, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public (e.g. Health and Safety at Work and Fire Safety legislation).

5.0 Licensing Hours – relates to higher standards being included within an operating schedule to address licensing objectives, the need to consider the adequacy of measures proposed to deal with nuisance and/or public disorder and demand stricter conditions with regard noise control near denser residential accommodation.

9.0 Licence Conditions - this Authority will therefore avoid the general application of standardised conditions to licences and certificates. However to ensure consistency, when it is necessary to apply conditions, the Authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn in particular circumstances to suit individual cases. (Pages 148 – 170 of section 182 Guidance).

6.0 Section 182 Guidance Considerations

This section highlights the elements of Section 182 Licensing Guidance that are most

relevant with respect to this application. This is not exhaustive and guidance should be considered fully prior to making decisions with respect to applications:-

6.1 **Committee Consideration**

Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case (para 1.15).

As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or interested party may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation (para 9.24).

6.2 **Control of Licensee**

Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or in a smoking shelter, where and to the extent that these matters are within their control (para 1.26).

6.3 **Conditions**

Under former licensing regimes, the courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both (para 10.4).

The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardised conditions which ignore these individual aspects. It is important that conditions are proportionate and properly recognise significant differences between venues. For example, charities, community groups, voluntary groups, churches, schools and hospitals which host smaller events and festivals will not usually be pursuing these events commercially with a view to profit and will inevitably operate within limited resources (para 10.13).

6.4 **Opening Hours**

In some town and city centre areas where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport, which may in turn lead to conflict, disorder and anti-social behaviour. In some circumstances, flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises (para 10.19).

However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where

there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested (para 10.20).

6.5 Reviews

It is advisable that members refer to Section 11 in the Section 182 Guidance which covers the review process.

7.0 Invitation to Determine

The Panel is requested to consider the information detailed above and determines whether to place extra conditions on the Club Premises Certificate and Premises Licence.

Implications:	
Corporate Outcomes or Other Policy/Priority/Strategy	
Good Quality of Life	<input checked="" type="checkbox"/> Good Reputation <input type="checkbox"/>
Good Value for Money	<input type="checkbox"/> High Quality Service Delivery <input type="checkbox"/>
Effective Partnership Working	<input checked="" type="checkbox"/> Strong Community Leadership <input checked="" type="checkbox"/>
Effective Management	<input type="checkbox"/> Knowledge of our Customers and Communities <input checked="" type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours	<input type="checkbox"/>
Other:	<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval	<input type="checkbox"/>
Financial	There are no financial implications at this stage <input checked="" type="checkbox"/>
	There will be financial implications – see paragraph <input type="checkbox"/>
	There is provision within existing budget <input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>
	Decisions may have potential for income generation <input type="checkbox"/>
Risk Management	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - <input type="checkbox"/> residual risk score - <input type="checkbox"/>
Staff	There are no additional staffing implications <input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph <input type="checkbox"/>
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>
Legal	Power: Licensing Act 2003
	Other considerations: S182 Guidance
Background Papers:	
Person Originating Report: Julia Smith, Commercial Health Manager, 01832 742066 jsmith@east-northamptonshire.gov.uk	
Date: 19 October 2009	
CFO	MO
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(Committee Report Normal Rev. 19)