



Licensing (Liquor and Gambling) Panel - 17 March 2010

Review of Premises Licence for The Benefield Wheatsheaf, Upper Benefield

Summary

Review of the Premises Licence for The Benefield Wheatsheaf, Upper Benefield

Attachment(s)

Appendix 1 - Premises Licence

Appendix 2 - Map of area

Appendix 3 - Request for review from neighbours

Appendix 4 - Representations

Appendix 5 - Premises Map

1.0 Summary

1.1 An application for a review of the Premises Licence at The Benefield Wheatsheaf, Upper Benefield was received from three neighbours on 15 January 2010. The appropriate blue notice informing people about the review was displayed at the premises, on the Council's notice board and website.

2.0 Application for Review

2.1 The full grounds for the review are attached at Appendix 3 of this report. In summary the grounds are: -
Persistent noise disturbance from amplified music and shouting inside and outside the premises. In addition, the continued breach of the Noise Abatement Notice served on the premises by East Northamptonshire Council.

3.0 Consultations

3.1 The following consultations have been undertaken: -

Child Protection	No representation
Fire and Rescue Service	No representation
Trading Standards	No representation
Revenue and Customs	No representation
Parish Council	No representation
Environmental Services	Representation
Planning	Representation
Public	Applicants for review
Police	No Representation

4.0 Determination

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

- East Northamptonshire Council's Licensing Policy Statement
- Section 182 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 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 licence
 - Remove the designated premises supervisor
 - Suspend the licence for up to three months
 - Revoke the licence

5.0 Policy Statement Considerations

- 5.1 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 asked to consider the information detailed above and determine the review of the Premises Licence.

Implications:		
Corporate Outcomes or Other Policy/Priority/Strategy		
Good Quality of Life	<input type="checkbox"/>	Good Reputation <input checked="" type="checkbox"/>
Good Value for Money	<input type="checkbox"/>	High Quality Service Delivery <input checked="" type="checkbox"/>
Effective Partnership Working	<input checked="" type="checkbox"/>	Strong Community Leadership <input 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 - 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:	
Background Papers: Section 182 Guidance - January 2010		
Person Originating Report: Julia Smith - Commercial Health Manager jsmith@east-northamptonshire.gov.uk 01832 742066		
Date: 23 February 2010		
CFO		MO
		CX

(Committee Report Normal Rev. 21)