

SUBJECT:	APPLICATION FOR A REVIEW OF A PREMISES LICENCE at: Grays Inn, The Green, Wooburn Green, HP10 0EJ
REPORT OF:	Application under section 51, Licensing Act 2003
Responsible Officer	Brian Whittall – Licensing Officer
Report Author	Brian Whittall – Licensing Officer
Ward/s Affected	W043 - The Wooburns, Bourne End & Hedsor

1. Purpose of Report

To provide Members with information to enable the determination of an application for a Review of a Premises Licence.

The Application has been submitted by Mr Timothy Blewett of Grove Cottage, 25 The Green Wooburn Green, HP10 0EJ (“the applicant”) in respect of ‘Gray’s Inn, The Green, Wooburn Green, HP10 0EJ (“the premises”).

2. Background

The premises is located around The Green in Wooburn village, is located in a residential conservation area and has been a licensed public house for over 100 years. The premises were granted a premises licence during the transitional period in 2005. In parallel an application was made to vary the times for licensable activities. No objections were received to the variation application from any responsible authority of any other person. The times and conditions attached to the licence remain as granted, **Appendix 1**.

An application to transfer the premises licence to the current holder, Richard Alan Potyka of Clayfield House, Whitepit Lane, Wooburn Green, Bucks, HP10 0HR (“the licence holder”) was submitted in November 2009. The current Designated Premises Supervisor (DPS), Mr Graham George Wilson was appointed to the licence in September 2019.

There is no record of any Temporary Event Notices (TEN) having been issued to the premises since the transition to the Licensing Act 2005 in 2005.

A valid application to review the Premises Licence was made on the 20th June 2022 on the grounds of preventing a public nuisance. The application can be found marked **Appendix 2**.

The plan attached to the Premises Licence can be found marked, **Appendix 3**.

The location of the premises can be found, **Appendix 4**.

3. Relevant Representations

3.1 Responsible Authorities:

3.1.1 **The Chief Officer of Police:** No objection received from the police to the application

3.1.2 **The Fire and Rescue Authority:** No Response received: No comment

3.1.3 **The Local Planning Authority (Head of Sustainable Development):** No Response received: No comment

3.1.4 **The Local Environmental Health Authority (Head of Environmental Health):** Representation received on the grounds of preventing a public nuisance, **Appendix 5**

3.1.5 **Weights and Measures Authority (Trading Standards Officer):**
No response received. No comment

3.1.6 **The Safeguarding and Child Protection Unit:**
No response received. No comment

3.1.7 **The Licensing Authority:**
No response received. No comment

3.1.8 Six responses were received from **Any Other Person**, are marked **Appendix 6**.

3.2 The licensing authority has complied with the requirement to advertise the application in accordance with the regulations both at the premises and at the council offices in High Wycombe.

4. Relevant Policy Considerations:

4.1 Regard must be given to the Council's Statement of Licensing Policy (published 4th March 2022) when determining this application. Of particular relevance (but not limited to) are the sections relating to large events (page 46-47) and the Council's approach to preventing a public nuisance (page 35).

4.3 In relation to the prevention of a public nuisance licensing objective, section 3.36, the Licensing Authority will consider whether the measures proposed to deal with the potential for public nuisance having regard to all circumstances of the application, are adequate. Much weight will be placed on recommendations made by Environmental Health Officers in terms of preventing public nuisance.

4.4 Regard must also be had to the national Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, as amended.

In relation to Prevention of Public Nuisance the Statutory Guidance states:

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

5. Resources, Risk and Other Implications

5.1 **Resource:** The only resource implications to date have been officer time however if the applicant or persons making relevant representations appeal against the decision of the Licensing Sub-Committee this would result in legal fees to defend the appeal and further costs. In the event of a successful appeal the Council may also have to pay the applicant/other party's costs.

Human Rights:

5.2. The Panel should consider its responsibilities under the Human Rights Act when considering the fair balance between the interests of the applicant and the rights of local residents. Any decision taken must be appropriate and proportionate to the objective being pursued. In particular, the following should be taken into consideration: Article 6 - the right to a fair hearing Article 8 - respect for private and family life Article 1, First Protocol - peaceful enjoyment of possessions (which can include the possession of a licence).

5.3. Interference with these rights is acceptable within the terms of the Human Rights Act 1998 if it safeguards the rights of others, is legitimate, proportionate and balanced in that there is a need to find a fair balance between the protection of individual rights and the interests of the community at large – other than rights under Article 6 and 14 which are absolute rights and cannot be interfered with.

5.4. Therefore, if Members refuse to grant the application for a new Premises Licence in whole or part or grant it subject to conditions, this will be a breach of the rights of the Applicant unless such refusal (in full or part) is, and/or the conditions imposed are, appropriate, proportionate and can be justified, on balance, by being outweighed by the rights of the community at large to peaceful enjoyment of their property/possessions. Any restriction placed upon the Premises Licence must not go beyond what is strictly necessary to achieve its legitimate purpose in order to mitigate the interference with the community at large's enjoyment of their property/possessions.

5.5. By taking into consideration all the material considerations relating to this application and balancing the interests/rights of all parties involved it is considered that the Licensing Sub-Committee's decision will be both proportionate and justified having had regard to the Human Rights Act 1998.

5.6 The Equality Act 2010, including the Council's Public Sector Equality Duty, must be taken into account when making decisions in relation to licensing applications.

6. Determination by the Licensing Sub-Committee

6.1 The Sub Committee is obliged to determine applications in the light of the above and any other material considerations with a view to promoting the four licensing objectives. Which are:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Regard must also be had to the Council's Licensing Policy, Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended, relevant representations received and the evidence presented at the Hearing.

- 6.2 Each application must be considered on its own merits and any conditions attached to premises licences 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. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to promote the licensing objectives in any individual case.
- 6.3 The Sub-Committee must avoid duplication of other legal requirements and should only impose conditions on a premises licence which are appropriate and proportionate for the promotion of the licensing objectives and where additional and/or supplementary measures are required in order to promote the licensing objectives.
- 6.4 The following options are available to the Licensing Sub Committee in determining the application:
- (a) modify the conditions of the licence;
 - (b) exclude a licensable activity from the scope of the licence;
 - (c) remove the designated premises supervisor;
 - (d) suspend the licence for a period not exceeding three months;
 - (e) revoke the licence.
 - (f) take no further action or take informal action
- 6.5 The Sub-Committee is asked to note that it may not reject the whole or part of the application or attach conditions - merely because it considers it desirable to do so. It must actually be **appropriate and proportionate** in order to promote the 4 licensing objectives and be in response to the representations received and full reasons must be given for the Sub-Committees decision.

Informative/s -

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Background Papers:	Application Ref 22/00550/LAREV Licensing Act 2003, as amended Licensing Policy – As adopted March 2022. Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended.