

Licensing Panel Hearing
4th November 2022 at 10:30
Via Microsoft Teams

Applicant(s): Sophie Matcham

Premises: Mistletoe Market, Higginson Park, Marlow, SL7 2AE

Ward affected: W034 - Marlow Chiltern Rise

DETAILS OF APPLICATION:

Premises History

The premises is a park and is the principal open space in Marlow located on the High Street and yet it also benefits from access to open countryside and the River Thames. The park area is 9.5 hectares (approximately 23 acres) and has been a public park since 1926.

This event is based in some respects on the summer event Pub in the Park which has had a Premises Licence since 2017.

Temporary Event Notice (TEN) Application

The applicant has applied under s.100 of the Licensing Act 2003 for temporary licence to cover the provision of regulated entertainment and retails sale of alcohol on the 9th December 2022 to 13th December 2022 15:00 hours – 22:45 hours daily. This application was received by the licensing unit on the 20th October 2022.

A copy of the full application can be found in **Appendix A**.

Under section 99A of the Licensing Act 2003 (As amended by the Police Reform and Social Responsibility Act 2011) the Control of Pollution Unit of the Council's Environmental Health department is defined as a 'relevant person'. Both the police and Environmental Health functions have up to three working days to give an objection to a TEN where they consider that the proposed activities will undermine a licensing objective, which are:

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

Where an objection is received, the licensing authority must hold a hearing to consider the matter unless all parties agree that no hearing is necessary.

The licensing unit has received a relevant representation as all parties could not agree to appropriate conditions being amended to the application in order to promote the licensing objectives, **Appendix B**.

RELEVANT PARTS OF THE COUNCIL'S LICENSING POLICY AND OF THE NATIONAL GUIDANCE ISSUED UNDER S.182 OF THE ACT

In relation to Temporary Event Notices (p.56)

- 4.16 The Licensing Act 2003 allows licensable activities to be provided at premises for small scale events (for less than 500 people) on a limited number of occasions per year without the need for a licence. Instead the organiser is required to notify the Licensing Authority in advance by way of Temporary Event Notice (TEN) and the event can go ahead unless the Licensing Authority notifies intervenes. The Licensing Authority will only intervene if an objection is made by the police or the Council's environmental health service or the legal limits have been exceeded. Objections, or representations, must be made on the basis that the event would undermine one or more of the licensing objectives. If they do, then the Licensing Authority is obliged to make a decision whether to allow the event to go ahead. The Licensing Authority may also attach conditions if the TEN takes place at a licensed premises. Also to permit the event to proceed with conditions.
- 4.17 It is important to note that the Licensing Authority is not allowed to take into account objections from parties other than the police or the Council's environmental health service. The Licensing Authority recommends that any party with concerns about an event taking place under a TEN contact the police or environmental health service.
- 4.18 Applicants should be aware that the limit of 499 persons applies to the number of people present at any one time and the number includes staff engaged in the event. Failure to comply with this limit may lead to enforcement action. Organisers are recommended, where appropriate, to employ means of recording the number of persons entering and leaving the premises.
- 4.19 Although the Act requires organisers to usually give a minimum of 10 working days' notice (not including the day of delivery of the notice or the day of the event) of qualifying temporary events, the Licensing Authority recommends that between three and six months' notice be given. This will allow the Licensing Authority to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and insufficient.
- 4.21 The Council has established safety advisory groups, (SAGs), consisting of the emergency services and other statutory agencies such as the highways authority, to advise and co-ordinate planning for public events in the Council's area, whether or not a premises licence or a temporary event notice is needed. More information regarding Buckinghamshire Council's SAGs is available in the large events section of this Policy.
- 4.22 Organisers of temporary events are strongly advised to contact the Council's licensing service for advice at the earliest opportunity when planning events. Where necessary, the advice of the SAGs can be obtained, or discussions held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed. Applicants intending to sell alcohol should be aware that it is an offence to supply alcohol to persons under 18 years of age or persons who are drunk.

In relation to the prevention of crime and disorder the guidance states (p.6)

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

In relation to the prevention of public nuisance (page 14) the policy states that:

3.16 The Council wishes to protect the amenity of residents and businesses in the immediate area surrounding the licensed premises. Applications should demonstrate that public nuisance will not increase as a result of the application being granted.

3.17 The Authority will particularly take into account the following:

The measures proposed to prevent noise and vibration escaping from the premises:

- The measures proposed to prevent noise and vibration escaping from the premises. Such measures may include installation of sound insulation and sound limitation devices;
- Measures proposed to prevent public nuisance from use of outside areas, including smoking areas and outdoor events;
- The measures proposed to prevent disturbance by customers arriving at or leaving the premises, in particular after 11pm, for example appropriate signage at exits and in car parks, parking provision, the provision of door supervisors, use of “quiet last half hour” at dance venues and provision and availability of safe transport home;
- The measures proposed to prevent light pollution from external lighting, including security lighting;
- The measures proposed for refuse storage or disposal and management of any additional litter.

OBSERVATIONS

The Panel is obliged to determine this application with a view to promoting the licensing objectives which are:

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

In making its decision, the Panel is also obliged to have regard to national Guidance and the Council's Statement of Licensing Policy. Should the Panel depart from either it must specify its reasons for doing so. The Panel must also take into consideration all of the representations made and the evidence submitted, both written and orally at the hearing.

In promoting the licensing objectives the Panel can take any of the following decisions in relation to the application:

- Grant the application as asked
- Grant the application, subject to any appropriate conditions (see notes below)
- Reject all or part of the application

Members are asked to note that they may not modify or impose new conditions or reject the whole or part of the application merely because they consider it desirable to do so. It must actually be **appropriate** to do so in order to promote the licensing objectives and any such step must relate to the actual representations made.

The Panel should also 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)

Plans of the premises is attached, **Appendix C**.