

SUBJECT:	APPLICATION FOR A REVIEW OF A PREMISES LICENCE at: New Bury Farm, Mill Lane, Slapton, LU7 9BT
REPORT OF:	Application under section 51, Licensing Act 2003
Responsible Officer	Kerryann Ashton – Licensing Officer
Report Author	Kerryann Ashton – Licensing Officer
Ward/s Affected	Ivinghoe

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 Buffalo Lodge Retreat Ltd, Buffalo House, Mill Road, Slapton, Leighton Buzzard, LU7 9BT (“the applicant”) in respect of New Bury Farm, Mill Lane, Slapton, LU7 9BT (“the premises”).

2. Background

The premises is located within the village of Slapton. The Premises consist of an equestrian centre offering facilities for both horses and riders. Consisting of indoor and outdoor arenas, Café and bar, Livery yard and equine vet clinic.

The premises were granted a premises licence on 4 July 2007 by a licensing Act Sub Committee after an objection was received from any other person. A copy of the original licence is attached as **Appendix 1** which shows the operating schedule that was volunteered by the applicant.

An application for a minor variation was received 14 April 2022 to vary the licence plan attached to the licence and to amend the licence operating schedule. This was approved 12 May 2022 under delegated authority.

An application for a major variation of the premises was then received on 25 May 2022. The variation was to change the licence area to include all the areas shown on the enclosed plan. “The variation it is to permit the premises to run two family orientated county show events each year, as described in the operating schedule. This is to include plays, films, live music, recorded music, performance of dance and similar activities. And add off sales to current licence hours”. This application was granted at a licensing Act Sub Committee meeting on the 19 July 2022 after a representation was received from any other person.

A subsequent application for a major variation of the premises was received 17 May 2023. The variation was to add Friday to the (non-equine) outdoor events where more than 1500 persons

are expected to attend, to be held on no more than two weekends per year, the following hours apply with on and off the premises supplies of alcohol permitted: Friday 0800 – 2200. For (non-equine) outdoor events where more than 1500 persons are expected to attend, to be held on no more than two weekends per year, the following hours apply: Live Music, Recorded music, Plays, Films, Other entertainment involving music and dance and Performance of dance: Friday 10:00 - 22:00. One representation was originally received from any other person however as this objection was withdrawn at least 24 hours before the Licensing Sub-Committee hearing this application was approved under delegated authority by officers.

An application to transfer the premises licence from Newbury Supplies Ltd to Newbury Park Events LTD was received on the 5 July 2023.

A copy of the current licence is attached as **Appendix 2**.

An email was received from Ms Griffin regarding the Fields of Thunder Event raising a number of issues. On the 30 August 2023 the event organisers were invited to meet with the Council's Safety Advisory Group to discuss the event and the issues raised by Ms Griffin. Following that meeting the Chair of the SAG wrote to both the event organisers and Ms Griffin to confirm what had been discussed. Copies of his emails to both parties can be found at **Appendix 3**.

The Principal Licensing Officer also wrote to Ms Griffin on the 21 September 2023 to advise from a licensing point of view.

"I visited the site on Saturday 22nd July (not 23rd) in response to your complaint to assess the situation for myself. The weather conditions were very poor and the exceptionally heavy rain would have rendered any attempt to traverse the intended route if not impossible, dangerous, with an evident risk to public safety. I can also confirm that when I attended on the Saturday afternoon the number of guests in attendance on site was very low and the surrounding roads were very quiet and clear of traffic. Under the circumstances, without any prejudice to the issue of the disputed driveway, I think the event organisers took the appropriate decision to not use the intended site entry/exit route via the fields from the S-bend entering the village. As Neil has explained, the requirement of the licence is to comply with the Event Management Plan 'so far as is reasonably practicable'. The exceptionally poor weather rendered compliance with the traffic plan in my judgment impracticable and I don't think the decision to depart from the plan could be considered a breach of the licence in this instance."

A valid application to review the Premises Licence was received on the 26 September 2023 on the grounds of 1) The Prevention of Crime and Disorder 2) Public Safety 3) The Prevention of Public Nuisance. The current premises licence holder is New Bury Park Events Ltd. A copy of the application and attachments can be found marked **Appendix 4**.

The grounds for the Review

- 1) The Prevention of Crime and Disorder - Trespass of company and public**
- 2) Public Safety - Crossing land with no access permitted puts public safety in question**
- 3) The Prevention of Public Nuisance - Nuisance to residential amenity misled location on application.**

The current plan attached to the Premises Licence can be found at the end of **Appendix 2**.

A location plan of the premises can be found, **Appendix 5**.

3. Relevant Representations

3.1 Responsible Authorities:

- 3.1.1 **The Chief Officer of Police:** Response received. No comment. A copy of the response is attached as **Appendix 6**.
- 3.1.2 **The Fire and Rescue Authority:** No Response received.
- 3.1.3 **The Local Planning Authority (Head of Sustainable Development):** A copy of the response is attached as **Appendix 7**.
- 3.1.4 **The Local Environmental Health Authority (Head of Environmental Health):** A copy of the response is attached as **Appendix 8**.
- 3.1.5 **Weights and Measures Authority (Trading Standards Officer):**
No response received.
- 3.1.6 **The Safeguarding and Child Protection Unit:** No response received.
- 3.1.7 **The Licensing Authority:** No response received.
- 3.1.8 **Home Office Alcohol Team:** Response received. No comment. A copy of the response is attached as **Appendix 9**.
- 3.1.9 One response was received from **Any Other Person**. A copy of the comments is marked as **Appendix 10**.

Correspondence since notice of hearing has been sent.

An additional email was received from the applicant of the review in support of their application which refers to various historic planning applications. Many of the points raised are beyond the scope of the Licensing Act 2003 as Planning and Licensing are two separate regimes. A copy of the email and attachments are marked as **Appendix 11**.

Correspondence has also been received from a solicitor on behalf of the licence holder. The letter and attachments mainly deal with issues that are beyond the scope of the Licensing Act 2003 as Planning and Licensing are two separate regimes. They state they object to the Review application on a number of grounds. A copy of the letter and attachments are marked as **Appendix 12**.

- 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 at The Gateway, Aylesbury.

3.3 Licensing Officer's Observations:

Many of these points raised in the review are beyond the scope of the Licensing Act 2003 which confines the Sub-Committee to consideration of possible breaches of the four licensing objectives which include Prevention of Crime and Disorder; Prevention of Public Nuisance; Public Safety and the Protection of Children.

Under the Prevention of Public Nuisance, the review has raised issues the failure to follow the traffic management plan supplied for the events and noise disturbances during the Days of Thunder Festival weekend from motorcycles.

4. Relevant Policy Considerations:

- 4.1 Regard must be given to the Council's Statement of Licensing Policy (published March 2022) when determining this application. Of particular relevance (but not limited to) are the

sections relating to Section 3 Part C - promoting the licensing objectives and Section 4 Licence Reviews.

3.6 The Licensing Authority will also take this Policy into account when deciding upon review applications. If a failure to comply with the Policy has been a contributory factor in the non-promotion of the licensing objectives, this is likely to be reflected in any decision made by the Licensing Authority.

3.24 In considering review applications, the Licensing Authority will take into account whether such standards have previously been observed at the premises and whether such standards are appropriate in order to promote the licensing objectives.

3.25 The Policy restricts itself to the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. Therefore, conditions will focus on matters within the control of operators, centring on the premises and the vicinity.

Prevention of crime and disorder

3.26 Section 17 of the Crime and Disorder Act 1998 places a legal duty on the Council to consider the reduction of crime and disorder, including the reduction of anti-social behaviour, in all its activities. The Licensing Authority will look to the police as the main source of advice on crime and disorder matters and will also seek to involve the local Community Safety Partnership for advice on anti-social behaviour.

The prevention of public nuisance

3.35 Public nuisance relates to the negative effects of nuisances including noise, light, odour, dust and litter affecting, or likely to affect, at least a few separate households locally. The Licensing Authority is keen to protect the amenity of residents and businesses in the vicinity of licensed premises. At the same time the Licensing Authority is aware that the licensed trade is important to the local economy and promoting the Council's culture and leisure aspirations. Consequently, the Licensing Authority will try and work together with statutory agencies, licensed businesses, residents and other businesses to reach a compromise in its decision making.

3.36 In considering all licence applications, 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. In preparing applications, applicants are strongly encouraged to consider the measures set out below. Much weight will be placed on recommendations made by Environmental Health Officers in terms of preventing public nuisance.

3.66 For the purpose of an application for a premises licence the Event Management Plan (EMP) can be the operating schedule. The Act requires the Licensing Authority to issue the licence with conditions consistent with the operating schedule accompanying the application. Paragraph 10.7 of the Statutory Guidance states that 'consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule.' Applicants should bear this in mind when drafting their EMP so that the premises licence is prepared with clear and enforceable conditions attached to it.

Licence reviews

4.26 The Licensing Authority can only review a licence on specific application and where it is alleged that the licensing objectives are being breached. The Act allows for any person to apply for a review, including local residents and responsible authorities.

- 4.2 Regard must also be had to the national Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, as amended (August 2023).
- 1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
- 1.3 The licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance; and
 - The protection of children from harm
- 1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.
- 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).
- 2.3 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.

Public nuisance

- 2.20 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.
- 2.21 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.
- 2.22 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or

persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). 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. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 2.23 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.
- 2.24 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. 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.
- 2.25 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.26 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial 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.

Reviews

- 11.9 Responsible authorities and other persons may make representations in respect of an application to review a premises licence or club premises certificate. They must be relevant (i.e., relate to one or more of the licensing objectives) and, in the case of other persons, must not be frivolous or vexatious. Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times.
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption).
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.
- suspend the licence for a period not exceeding three months.
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises.

Planning and building control

14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. Licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

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.

5.2 Human Rights:

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 onto 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 -

Officer Contact:	Kerryann Ashton – email address: kerryann.ashton@buckinghamshire.go.uk
Background Papers:	Application Ref PR202309-331542 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.