

Meeting:	Licensing Panel
Date:	17 August 2005
Subject:	Application for variation of hours at Kenton Sports Club, Kenton Park Road, Kenton during Transitional period
Responsible Officer:	Chief Environmental Health Officer
Contact Officer:	P Sivashankar, Service Manager, ext 5605
Portfolio Holder:	Councillor Philip O'Dell
Key Decision:	No
Status:	Public

Section 1: Summary

Decision Required

Members are asked to determine the application in accordance with the guidance in Section 2.5.

Reason for report

Representations have been received against this application. As per the Council's Licensing Policy and Delegation of Licensing Functions, all applications with unresolved representations are to be determined by the Licensing Panel.

Benefits

The hearing provides the applicant, persons making a representation and the Licensing Authority to engage in a constructive dialogue to determine the application within an open public forum..

Cost of Proposals

None

Risks

If any party is aggrieved with the decision or believes that a fair hearing was not provided, they can apply to the magistrates Court for a re-hearing.

Implications if recommendations rejected

N/A

Section 2: Report

2.1 Brief History

- 2.1.1 Application has been made by the Club Secretary, Mrs tasha Dyson, for a Club Premises Certificate (CPC) for Kenton Sports Club. A copy of the application is attached to this Report.
- 2.1.2 The application seeks changes to the existing Club Registration Certificate, and if granted will take effect from 24th November 2005. The details are on boxes C, E, F,J, and L.

The current permitted hours are 1100 to 2300 Monday to Saturday and Midday to 2230 on Sundays. The premises are also allowed to provide musical and dance entertainment to club members and their guests under the Licensing Act 1964, a right not transferred automatically under the Licensing Act 2003. The applicant is seeking these variations.

- 2.13 The Statutory Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, defines a variation as a major variation any changes other than simply changing the premises name or the change of Designated Premises Supervisor (DPS). The Statutory Guidance is clear that in such variations the applicants are expected to conduct a thorough risk assessment with regard to the licensing objectives and translate those assessments in to action under the operating schedule. This application does not offer any such additional detail in their operating schedule, hence this Section is unable to comment whether a thorough risk assessment had been taken place prior to making this application.

2.14 The Premises:

The premises are on Kenton Park Road, situated within the sports ground complex. The area is predominantly residential with the Ground backing on to the rear gardens of residential premises. A map of the area is attached to this report to assist the Panel.

2.2 Representations

- 2.2.1 The application has received 1 representation from a Responsible Authority. Copy of this representation is attached to this Report.

2.3 Consultation

The application was advertised in accordance with the Regulations under the Licensing Act 2003.

2.4 Financial Implications

None.

2.5 Legal Implications

2.5.1 Having considered the representations from all parties, the Panel has to determine the application for the variation of the converted premises licence. The legislation does not list the grounds on which the Panel can refuse and/or grant an application for a licence. The legislation does allow for the imposition of conditions, restrictions, etc. but again offers no guidance as to the type of condition that may be imposed. It is clear that any additional conditions would have to be practical, enforceable and meet the rules of natural justice and the promotion of the Four Licensing Objectives.

2.5.2 Options available to the Panel:

a. To grant the application as it stands. Any licence granted would be subject to conditions relating to the Operating Schedule attached to the Application.

b. To grant the Licence in light of any evidence presented at the hearing, from both the interested party and the applicant, subject to:

The conditions mentioned in the operating schedule being modified to such extent as the authority considers necessary for the promotion of the licensing objectives and/or to limit the period of validity of the grant, and

Any condition which, must under section 19, 20 or 21 (Mandatory Conditions) of the Licensing Act 2003 be included in the licence, and

To exclude from the scope of the licence any of the licensable activities to which the application relates,

c. To reject the application.

It should be noted with all options that;

- i). Clear reasons would have to be given to the applicant and to the Persons/Responsible Authorities who made representations if the application were granted, refused or, if additional conditions were imposed; and
- ii). The applicant and/or the interested party/Responsible Authorities would have the right of appeal to a Magistrates Court.

2.5.3. In addition to determining the application in accordance with the legislation, Members must also have regard to the provisions of the Human Rights Act 1998.

2.6 Equalities Impact

N/a

Section 3: Supporting Information/ Background Documents

Application

Representations

Mandatory Conditions that would be attached to the licence if granted.

Conditions drawn from the Operating Schedule provided by the Applicant-Annex 2 to the Premises Licence.

Annex 2 – Conditions consistent with the operating Schedule

General

None offered

The prevention of crime and disorder

None Offered

Public Safety

None offered

The prevention of public nuisance

The Function hall will be closed by midnight.

The protection of children from harm

None offered

MANDATORY CONDITIONS

19 Mandatory conditions where licence authorises supply of alcohol

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

20 Mandatory condition: exhibition of films

(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where-

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

21 Mandatory condition: door supervision

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

(2) But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

- (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
- (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section-

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.