

LICENSING ACT SUB COMMITTEE

Licensing Act 2003 Application for a Premise Licence – The Pavilion, Regent Park Bowling Centre, Regent Park, Morecambe - Determination of Application Following Relevant Representations 19th December 2016

Report of Licensing Manager

PURPOSE OF REPORT

To enable Members to determine an Application for a Premise Licence under Section 17 of the Licensing Act 2003 submitted by Mr Brian Cooke and Mr Paul Graham Buckley for The Pavilion, Regent Park Bowling Centre, Regent Park, Morecambe, following the receipt of relevant representations.

The report is public

RECOMMENDATIONS

The Sub Committee is requested to determine, in the light of the representations made, and having regard to the Council's Statement of Licensing Policy, The Licensing Act 2003 and any Regulations made under that Act, as well as Government Guidance, whether to grant the Application as requested, modify any conditions of the Licence, or to reject the whole Application. Members are reminded that they should state the reasons for their decision.

1.0 Introduction

- 1.1 The Council grants permissions for Premise Licences submitted under the Licensing Act 2003 (the Act). Mr Brian Cooke and Mr Graham Paul Buckley have submitted an Application under Section 17 of the Licensing Act 2003 for a Premise Licence for The Pavilion, Regent Park Bowling Centre, Regent Park, Morecambe. It has been established that this is a properly served Application, with all relevant notices being displayed in accordance with the statutory requirements of the Act.
- 1.2 The Application is for a Licence to facilitate live music at the premises on Saturday evenings between the hours of 2030 and midnight, late night refreshment on Saturday evenings between the hours of 2300 and midnight, and the sale and supply of alcohol on the premises Sunday to Friday between the hours of 1100 to 2300 and 1100 to midnight on Saturday.

Details of the Application for the Premise Licence are set out in the Application Form, which is Appendix 1 to this report.

- 1.3 There is a statutory requirement to advertise such Applications for a period of 28 days, in which time representations in favour or against the Application can be submitted. Any representation submitted must relate to the likely impact of the grant of the Licence on one or more of the four Licensing Objectives which are:
- The Prevention of Crime and Disorder;
 - Public Safety;
 - The Prevention of Public Nuisance;
 - The Protection of Children from Harm.

1.4 During the 28 day representation period, two representations were received from Other Persons, as defined by the Act. Copies of the representations are attached at Appendix 2 to this report.

1.5 The representations relate to the likely impact of the grant of the Licence in relation to all four of the licensing objective, as set out above.

1.6 Under Section 18(3) of the Act, it is necessary for a hearing to be held to consider the application, as representations have been received from Other Persons. The relevant section prescribes:

Where relevant representations are made, the authority must -

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary; and
- (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the Licensing Objectives.

The steps are -

(a) to grant the Licence subject to –

- (i) the conditions mentioned in subsection 2 (a) modified to such extent as the authority considers appropriate for the promotion of the Licensing Objectives; and
- (ii) any condition which must under section 19,20 or 21 be included in the Licence;

(b) to exclude from the scope of the Licence any of the licensable activities to which the Application relates.

1.7 The relevant parts of the Council's Statement of Licensing Policy, as well as Government Guidance in relation to public nuisance, are attached at Appendix 3 to this report.

1.8 In accordance with the relevant Regulations, the parties have been given Notice of the Hearing. A copy of the Notice is attached at Appendix 4 to this report. It was not felt necessary to request any clarification from the parties. The parties have been required, in accordance with the Regulations, to indicate at least five working days

before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further documentation submitted by any of the parties after the circulation of this agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all the parties.

- 1.9 Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications. In particular, in accordance with Article 6, all parties are entitled to a fair hearing. Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions although, again, this right is qualified in the public interest.

2.0 Conclusion

- 2.1 Members should consider, having regard to the Council's Statement of Licensing Policy, The Licensing Act 2003 and any Regulations made under that Act, Government Guidance and representations made, whether to grant the Application as requested, modify any conditions of the Licence, or to reject the whole Application. Members are reminded that they should state the reasons for their decision.

- 2.2 Members should note that, due to exemptions contained in the Live Music Act 2012, if the Licence is granted with conditions, any condition relating to live music would not be applicable between the hours of 0800 and 2300, provided that the premise is open for the sale of alcohol and there is an audience of no more than 500. In the case of this particular Application, if granted as submitted, the relevant hours for the exemption would be 1100 hours to 2300 hours.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)	
None.	
FINANCIAL IMPLICATIONS	
Financial Services have not been consulted as there are no financial implications.	
LEGAL IMPLICATIONS	
Legal implications are contained within the report, In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the Magistrates' Court within 21 days.	
BACKGROUND PAPERS	Contact Officer: Wendy Peck Telephone: 01524 582317 E-mail: wpeck@lancaster.gov.uk Ref: WP/DWE
None	