

South Lakeland District Council
Licensing Sub-Committee
Tuesday 6th July 2021

**Application for the grant of a Club
Premises Certificate**

Portfolio: Economy, Culture and Leisure Portfolio Holder
Report from: Director of Customer and Commercial Services
Report Author: Sean Hall Principal Specialist (Health & Environment)
Wards: Sedbergh and Kirkby Lonsdale;
Forward Plan: Not applicable

1.0 Expected Outcome

1.1 The purpose of this report is to enable members to determine whether or not to grant the application for a club premises certificate in respect of Kirkby Lonsdale Football Club Lunefield Park Kirkby Lonsdale having taken into account the 10 relevant representations submitted by interested parties.

2.0 Recommendation

2.1 Members are requested to consider the representations that have been made, and determine whether or not to grant the application for a club premises certificate, with or without conditions.

2.2 Subsection 1.17 of guidance issued under section 182 of the Licensing Act 2003 states
"each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case".

3.0 Background and Proposals

3.1 On 21st April 2021 an application for the grant of a club premises certificate, under the Licensing Act 2003, on behalf of Kirkby Lonsdale Football Club, Kirkby Lonsdale was received from Chris Rowsell. The application (**Appendix A**) seeks authorisation for the sale of alcohol (for consumption on the premises) Monday to Sunday from 13.00 hours to 23.00 hours. The application also seeks authorisation to

play Recorded music on a Saturday from 14.00 hours to 22.00 hours. However Recorded music on alcohol licensed premises are not licensable activities if they take place between 8 am and 11pm on any day and the audience is less than 500. As part of the application Mr Rowsell also submitted the proposed club rules (**Appendix B**).

3.2 The opening hours specified by the application are 12 noon to midnight Monday to Sunday inclusive.

3.3 A plan of the general area showing the club house, football pitches and the proximity of local resident streets is enclosed. (**Appendix D**).

4.0 Consultation

4.1 A copy of the application has been served on all responsible authorities. None of the responsible authorities have submitted a relevant representation.

4.2 The applicant advertised the application in a local newspaper within the first 10 working days of consultation as required by legislation. They also displayed a 'blue notice' at the premises from the first day of the consultation period.

4.3 10 representations has been received from interested parties and they have been brought to the attention of the applicant. The representations concerned that the possible effect of granting the licence would undermine all four of the licensing objectives, which are 'Public Safety', 'Prevention of public nuisance', 'Prevention of crime and disorder' and 'Protection of children from harm'. A copy of the representations are contained within (**Appendix C**) of this report.

5.0 Alternative Options

5.1 The Licensing Sub-Committee may

- Grant the club premises certificate as requested
- Refuse to grant the club premises certificate or;
- Grant the club premises certificate with modified conditions.

6.0 Links to Council Priorities

6.1 Working together to make South Lakeland the best place to live, work and explore.

7.0 Implications

Financial, Resources and Procurement

7.1 There are no financial implications.

Human Resources

7.2 There are no issues in this respect

Legal

7.3 Licensing Act 2003 section 72 (3) states that where relevant representations are made in relation to a club premises certificate application, the Licensing 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.

Licensing Act 2003, section 72(4) specifies that:

(4) The steps are—

(a) to grant the certificate subject to—

(i) the conditions mentioned in subsection [72](2)(a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

(ii) any conditions which must under section 73(2) to (5), 73A or 74 be included in the certificate;

(b) to exclude from the scope of the certificate any of the qualifying club activities to which the application relates;

(c) to reject the application.

The conditions in subsection 72(2)(a) are:

(2) Subject to subsection (3), the authority must grant the certificate in accordance with the application subject only to—

(a) such conditions as are consistent with the club operating schedule accompanying the application

The conditions under section 73(2) to (5) are relevant to the supply of alcohol for consumption off the premises. The application at Appendix A is in relation to supply of alcohol for consumption on the premises.

S73A refers to mandatory conditions specified by the Secretary of State.

The conditions in s.74 are relevant to the exhibition of films; the application at Appendix A indicates that this is not relevant in this instance.

7.3.1 Members' attention is drawn to the following sections of the Section 182 Guidance to the Licensing Act 2003, which states:

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).*

2.15 *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. 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. 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.
- 2.21** Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in 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.
- 9.42** Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43** The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 16.36** Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:
- at the time of the music entertainment, the premises are open for the purposes

- of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

- 16.37** *Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.*
- 16.38** *More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.*
- 16.39** *Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new club premises certificate or to vary an existing club premises certificate. conditions imposed, in accordance with paragraphs 9.41 to 9.43, for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.*
- 16.40** *These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.*
- 16.41** *Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.”*

Health, Social, Economic and Environmental

- 7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No
- 7.5 No assessment has been completed as the hearing is in line with legislative guidance, the impact of which has deemed as having a neutral impact.
- 7.6 Summary of health, social, economic and environmental impacts:
N/A

Equality and Diversity

- 7.7 Have you completed an Equality Impact Analysis? No
- 7.8 If you have not completed an Impact Assessment, please explain your reasons:
No assessment has been completed as the hearing is in line with legislative guidance, the impact of which has deemed as having a neutral impact.

7.9 Summary of equality and diversity impacts:

Risk

Risk	Consequence	Controls required
Should members be minded not to grant this application, their decisions may be overturned on appeal to the Magistrates Court.	Costs awarded against the Council should the appeal be upheld.	Members to be made aware that the applicant has a right of appeal.

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
A	Copy of application and plan
B	Copy of proposed club rules
C	Copy of 10 representations received
D	Map showing premises and general area

Background Documents Available

Name of Background document	Where it is available
Licensing Act 2003	https://www.legislation.gov.uk/ukpga/2003/17/contents
Section 182 guidance issued under Licensing Act 2003	https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003
SLDC Statement of Licensing Policy	https://www.southlakeland.gov.uk/contentsearcher?q=licensing+poli

Tracking Information

Signed off by	Date sent	Date Signed off
Legal Services	08/06/2021	25/06/2021
Section 151 Officer	08/06/2021	10/06/2021
Monitoring Officer	08/06/2021	25/06/2021
CMT	N/A	
Circulated to	Date sent	
Lead Specialist	N/A	
Human Resources Lead Specialist	N/A	
Communications Team	N/A	
Leader	N/A	
Committee Chairman	N/A	
Portfolio Holder	N/A	
Ward Councillor(s)	N/A	
Committee	N/A	
Executive (Cabinet)	N/A	
Council	N/A	