

AGENDA
ITEM

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SOUTH HAMS DISTRICT COUNCIL

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NAME OF COMMITTEE	Licensing Sub-Committee
DATE	Thursday 1 September 2011
REPORT TITLE	Application to vary a Premises Licence
Report of	The Licensing Manager
WARDS AFFECTED	Erme Valley

Summary of report:

To determine an application for the variation of the Premises Licence at **Filham Park, Ivybridge, PL21 0LE** in accordance with Section 35 of the Licensing Act 2003. Relevant representation has been received but mediation has taken place with amendments being made to the application. As a result all parties consider a hearing is unnecessary.

Financial implications:

There are no direct financial implications to the Council from this Report.

RECOMMENDATIONS:

That the Sub-Committee consider the application to vary the Premises Licence together with the amendments agreed following representations and make a determination in respect of this application, namely to:

- i grant the application as submitted, subject to any Mandatory Conditions required;**
 - ii modify the conditions of the licence;**
 - iii reject the whole or part of the application;**
- in line with the licensing objectives (Section 4) contained within the Licensing Act 2003.**

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1. BACKGROUND

- 1.1 The Licensing Authority has received an application for a variation to the premises licence for **Filham Park, Ivybridge, PL21 0LE**, known as **IvyLive Festival**. A copy of the existing licence is attached (**Appendix 'A'**) and the variation application can be found in **Appendix 'B'**.
- 1.2 IvyLive Music Festival is permitted to take place annually on one weekend (Friday, Saturday and Sunday) between 1st August and 30th September. The festival is due to commence on 9th September until 11th September this year.
- 1.3 The application is to extend the hours for regulated entertainment, (namely provision of live and recorded music and entertainment of a similar nature, and provision of facilities for dancing and facilities for entertainment of a similar nature) on the Friday and the Sunday, to start from 4pm on Friday (currently 5pm) and finish at 9pm on Sunday (currently 4pm). Also to include the performance of dance and exhibition of films during the same hours and to extend the hours for sale of alcohol until 8.30pm on the Sunday evening. In addition they wish to extend the hours of late night refreshment and provision of recorded music on Friday and Saturday night until 2am, for a 'silent disco' only. The music noise level conditions on the licence are also being amended and the layout has changed (see **Appendix 'B'**). The applicants have requested that the premises open to the public at 12pm on Friday (currently 4pm) and close at 9.30pm on Sunday (currently 6pm).
- 1.4 As the applicants wish to provide the sale of alcohol, provision of regulated entertainment and provision of late night refreshment, under the Licensing Act 2003 they require a premises licence. As regards to this application, only interested parties, responsible authorities or district councillors may make representations.
- 1.5 We received one representation from the Police in relation to the extended hours applied for regulated entertainment, sale of alcohol and hours open to the public on the Sunday. They have requested that these hours be reduced so that on the Sunday regulated entertainment will finish at 8.30pm, sale of alcohol will finish at 6.30pm and the public will be off the premises by 9pm. Their representation and proposed amendments can be found in **Appendix 'C'**. The applicant has agreed to these amendments.
- 1.6 Both parties have agreed, subject to these amendments being implemented on the licence that a hearing is unnecessary.
- 1.7 The existing premises licence is in **Appendix 'A'**, the variation application can be found in **Appendix 'B'**, and the representation and agreed amendments are in **Appendix 'C'**.

(Please note that due to the amount of paperwork contained within these appendices, full copies have only been circulated to the Sub-committee Members. Any Interested Parties who would like to receive full (or part) copies are asked to contact Member Support Services on (01803) 861273.)

2. ISSUES FOR CONSIDERATION

- 2.1 The Police were concerned with the extended hours requested for regulated entertainment, sale of alcohol and hours open to the public on the Sunday. They are satisfied that their concerns will be addressed through the implementation of the agreed amendments.
- 2.2 The Sub Committee will now need to consider this application.

3. LEGAL IMPLICATIONS

- 3.1 The Act requires mandatory conditions to be imposed (if applicable) on the licence, the wording of which is prescribed by the Act but may be summarised as follows:

(a) Section 19 - Mandatory conditions relating to the supply of alcohol

No alcohol may be supplied unless there is a Designated Premises Supervisor who also holds a personal licence.
Every supply of alcohol under a premises licence must be made or authorised by a personal licensee.

(b) Section 19A - Irresponsible drinks promotions

Staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(c) Section 19A - No alcohol to be dispensed directly into the mouth of another person

No alcohol is dispensed directly by one person into the mouth of another.

(d) Section 19A - Free drinking water

That free tap water is provided on request to customers where it is reasonably available.

(e) Section 19A - Age verification policy

- (i) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (ii) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

(f) Section 19A - Minimum measures for alcoholic beverages

The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

(g) Section 20 - Mandatory condition relating to exhibition of films

Children may only be admitted to films in accordance with the classification recommendations of the British Board of Film Classification, or as recommended by the Licensing Authority.

(h) Section 21 - Door Supervision

Where door supervisors are specified by condition, those individuals must be licensed by the SIA.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications to the Council from this Report.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
<p>To review the application in line with:</p> <ul style="list-style-type: none"> • The Licensing Act; • National Guidance issued by the Secretary of State, and, • The South Hams District Council Statement of Licensing Policy. <p>To create an increased opportunity for employment in the district.</p> <p>An opportunity to maintain the districts distinctive environment whilst enabling access and sensitive development.</p> <p>To consider whether the proposal would promote tourism. The population doubles in the summer months with tourists and international visitors who are, in the main, families with young children and retired people – the very segments of society who would perhaps be deterred by anti-social behaviour.</p>	<p>To be able to give consideration to representations made by ‘Interested Parties’ and / or ‘Responsible Authorities’ in line with the Licensing Objectives, namely:-</p> <ul style="list-style-type: none"> • The prevention of Crime and Disorder; • Public Safety; • The prevention of public nuisance; and • The Protection of children from harm.
Issues/Obstacles/Threats	Control measures/mitigation
<p>The need to address the four Licensing Objectives written within the Act namely:</p> <ul style="list-style-type: none"> • The prevention of Crime and Disorder; • Public Safety; • The prevention of public nuisance; and • The Protection of children from harm. <p>(Also listed above as a benefit)</p> <p>Due consideration should be given to Guidance issued by the Secretary of State under section 182 of the said Act 2003.</p> <p>Due consideration should be given to the Council’s Licensing Policy Statement.</p> <p>Failure to adequately consider these issues could result in the Council facing an appeal to the Magistrates Court.</p>	<p>The Licensing Authority follows strict legislation in accordance with the Licensing Act 2003 and adheres to the statutory instruments contained within the Act.</p>

Corporate priorities engaged:	There is a link to the Council's priority of improving Community Life.
Statutory powers:	Licensing Act 2003
Considerations of equality and human rights:	Compliance with the Human Rights Act 1998 – Article 6: Right to a fair hearing
Biodiversity considerations:	Not applicable
Sustainability considerations:	As above under corporate priorities engaged
Crime and disorder implications:	Section 17 of Crime and Disorder Act 1998 applies.
Background papers:	<p>Guidance on Meeting the Licensing Objectives</p> <p>The Licensing Act 2003</p> <p>Guidance issued under Section 182 of the Licensing Act 2003</p> <p>The District Council's Statement of Licensing Policy</p> <p>Confirmation from applicant and Police that they agree to the amendments and that a hearing is unnecessary.</p>
Appendices attached:	<p>Appendix A – Existing premises licence</p> <p>Appendix B – Application for new premises licence</p> <p>Appendix C – Representation and agreed amendments</p>