

REPORT TO THE LICENSING SUB-COMMITTEE – 4TH DECEMBER 2024 AT 10:00

AGENDA ITEM 4

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT MASTER PARK , OXTED BEER FESTIVAL, CHURCH LANE, OXTED, RH8 9WE WHICH HAS ATTRACTED REPRESENTATIONS

Report of:	Ian Garrod, Licensing Officer - Tel: 01883 732794 licensing@tandridge.gov.uk
Purpose of Report:	<p>An application has been made for a variation of a premises licence to be granted under the Licensing Act 2003 at Master Park, Oxted Beer Festival, Church Lane, Oxted, RH8 9WE.</p> <p>During the consultation period, representations were received from Responsible Authorities, Ward Councillors and members of the public in respect of objecting to the application. The representations received have raised concerns that the licensing objectives under the Act have not been met.</p> <p>In accordance with S35 of the Act, the application must be determined by the Sub-Committee of the Council's Licensing Committee.</p>
Publication status:	Unrestricted.
Recommendations:	<p>That, in accordance with its delegated powers, the Sub-Committee may either:</p> <ul style="list-style-type: none">a) Grant the application as applied for;b) Grant the application subject to modifying the conditions the Sub-Committee considers necessary to promote the licensing objectives;c) Reject the whole or part of the application. <p>Members of the Sub-Committee may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must be appropriate in order to promote the licensing objectives.</p> <p>Members of the Sub-Committee are asked to make a decision at the end of the Hearing after all relevant parties have been given the opportunity to be heard. Members must give full reasons for their decision.</p>
Appendices:	<p>Appendix A Application for a variation to Premises Licence to be granted</p> <p>Appendix B Current premises licence</p> <p>Appendix C Current plan of the licensed area and map of the area</p> <p>Appendix D Representations from Licensing Authority</p> <p>Appendix E Licence conditions agreed by the applicant with the Police</p> <p>Appendix F Licence conditions agreed by the applicant with Environmental Health</p> <p>Appendix G Representations from Ward Councillor</p> <p>Appendix H Representations from members of the public</p> <p>Appendix I Amendments to application from applicant</p> <p>Appendix J E-mail from the owners of Master Park cancelling 2025 event</p>

1 Purpose of Report

- 1.1 The sale by retail of alcohol, the provision of regulated entertainment and the provision of late night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required for any of these activities to be undertaken at premises within the District.
- 1.2 The Sub-Committee is responsible for the exercise of many of the functions of the Licensing Authority, including determination of applications where representations have been received.
- 1.3 In accordance with the provisions of Section 35 of the Licensing Act 2003, the licensing authority must hold a hearing to determine an application for the variation of a premises licence where relevant representations have been received and not withdrawn.
- 1.4 The Sub-Committee must consider any representations made, providing that the representations are relevant to the promotion of the licensing objectives and, in the case of those made by other persons, are not frivolous or vexatious. The licensing objectives are the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

2 Background Information

- 2.1 On 16th September 2024, the Licensing Authority received an application for a variation to a premises licence to be granted at Master Park, Oxted Beer Festival, Church Lane, Oxted, RH8 9WE. A copy of the application is attached at **Appendix 'A'**.
- 2.2 The application is applying to increase the capacity allowed to attend an event at any given time from 6000 to 9999. Therefore removing the condition, "2. There will be a limit of 6,000 attendees at any given time when the Festival is taking place", on the current premises licence.
- 2.3 The premises licence for Master Park, Oxted Beer Festival, Church Lane, Oxted, RH8 9WE was first granted on 1st May 2013 with a capacity of 4999. A copy of the current premises licence is attached at **Appendix 'B'**. The current premises licence allows for the premises to be used from 11:00 to 23:00 Monday to Sunday for the sale of alcohol and regulated entertainment.
- 2.4 A copy of the current plan showing the licensed area and a location plan of the area showing where Master Park on Church Lane in Oxted is attached at **Appendix 'C'**.
- 2.5 In April 2024, the then premises licence holder applied for a variation to the premises licence to increase the capacity from 4999 to 9999. During the consultation period, with mediation between the applicant and other parties with concerns, the applicant amended the application to a capacity of 6000. The application was granted on 9th May 2024. The 2024 Festival went ahead under the varied licence. However, due to inclement weather the attendance figures were low, therefore the new capacity of 6000 has not been tested.
- 2.6 On 29th August 2024, the premises licence was transferred to Events Runway Limited, and a new Designated Premises Supervisor put in place.

3 Consultation

- 3.1 The consultation period for the application was from 16th September 2024 until 14th October 2024.
- 3.2 The Act requires the applicant to advertise the application in a local newspaper on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority. It was found that the newspaper advert which should have been published by 26th September 2024 at the latest, had been published on the 11th October 2024.
- 3.3 As a result of the newspaper advertisement not complying with the Act, the consultation period was restarted with the new consultation end date of the 8th November 2024.
- 3.4 The application was served on all the responsible authorities and has been available to view by members of the public on the Council's website during the consultation periods. It is confirmed that statutory notices were displayed on the site throughout both consultation periods. For the 2nd consultation period the newspaper advertisement complied with the Act.

4 Representation

- 4.1 There was one representation submitted by the Licensing Authority objecting to the application. This representation raises concerns that all the licensing objectives under the Act have not been met as attached at **Appendix 'D'**.
- 4.2 The Police raised concerns with the application and following mediation with the applicant, it was agreed subject to the proposed additional conditions as attached at **Appendix 'E'** the police would not object.
- 4.3 Environmental Health raised concerns with the application with noise emanating from the licensable area. Following mediation with the applicant, it was agreed subject to the proposed additional conditions as attached at **Appendix 'F'** Environmental Health would not object.
- 4.4 There were three objections received from the ward members. Following mediation with the applicant two of these withdrew their objections. The remaining objection from a ward member is attached at **Appendix 'G'**.
- 4.5 There was one objection received from the Oxted BID. In line with the Act, this representation was regarded as be submitted by a member of the public and has been deemed relevant by the authority. Following mediation with the applicant, this representation was withdrawn.
- 4.6 There were three objections from members of the public and have been deemed relevant by the authority. These are attached at **Appendix 'H'**.

Christopher Pearman	Public safety
Anne Mant	Prevention of public nuisance
Charlotte Jordan	Prevention of public nuisance Prevention of crime & disorder

- 4.7 Following receipt of the representations, the applicant was contacted with the issues raised by the objectors. Following discussions with the applicant and objectors, the applicant has provided confirmation by email on 11th October 2024 to amend the application to reduce the capacity from 9999 to 8000 as attached at **Appendix 'I'**.

- 4.8 The Licensing Authority received an email from the Trustees of Master Park on 13th November 2024. This was to advise that due to the damage caused to the land of the park at the 2024 event, they have decided that they will not allow the event to go ahead in 2025. This email is attached at **Appendix ‘J’**.

5 Policy & Guidance

5.1 Home Office revised guidance issued under section 182 of the Licensing Act 2003

The Sub-Committee must have regard to the Secretary of States Guidance issued under S182 of the Licensing Act 2003 and pay particular attention to the following sections:

Chapter 1: Introduction

Licensing objectives and aims	1.2 - 1.5
Purpose	1.7
Legal Status	1.9
Licensing Policy	1.12
Licensable activities	1.13
Authorisations or permissions	1.14
License conditions – general principles	1.16
Each application on its own merits	1.17
Other relevant legislation	1.19

Chapter 2: The Licensing Objectives

Crime and disorder	2.1 - 2.7
Public safety	2.8 - 2.10
Counter Terrorism and public safety	2.11-2.15
Ensuring safe departure of those using the premises	2.16
Safe capacities	2.18 -2.20
Public nuisance	2.21 - 2.27
Protection of children from harm	2.28 - 2.37

Chapter 3: Licensable activities

Summary	3.1 - 3.2
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Chapter 5: Who needs a premises licence?

Relevant parts of Act	5.1 - 5.2
Large scale time-limited events requiring premises licence	5.26

Chapter 8: Applications for premises licences

Responsible Authorities	8.7
Other persons	8.13-8.14
Steps to promote the licensing objectives	8.41 - 8.49
Variations	8.62

Chapter 9: Determining applications

General	9.1
Where representations are made	9.3
Relevant, vexatious and frivolous representations	9.4 - 9.9
The role of responsible authorities	9.11 - 9.12
Licensing authorities acting as responsible authorities	9.13 – 9.19
Hearings	9.31 - 9.40
Determining actions that are appropriate for the promotion of the licensing objectives	9.42 - 9.44

Chapter 10: Conditions attached to premises licences and club premises certificates

General	10.1 - 10.3
Imposed conditions	10.8 – 10.9
Proportionality	10.10

Chapter 13: Appeals

General	13.1 - 13.7
Giving reasons for decisions	13.10 - 13.11

5.2 Tandridge District Council – Statement of Policy made under Licensing Act 2003

The Sub-Committee must have regard to the Councils Licensing Policy and pay particular attention to the following sections:

Part A Introduction and Legislative Basis

1. Introduction	1.1; 1.3 - 1.5
2. Scope of this Policy	2.1 - 2.2; 2.5; 2.8

Part B Principles

6. Fundamental principles	6.1 - 6.9
7. TDC's aspirations and vision for the place	7.1 - 7.7
16. The Licensing Authority as a responsible authority	16.1 – 16.3

Part C Policies for applicants

20. Risk Assessment	20.1 - 20.2.6
23. Large Scale Events	23.1 – 23.4
26. Outside spaces	26.1 - 26.4
28. Operating Schedules and Volunteered Conditions	28.1 - 28.2
29. Variation of licences	29.1

Part D Policy for representations/objections

34. Disclosure of personal details	34.1 - 34.5
35. Determining relevance of representations	35.1 - 35.8
36. Mediation	36.1 - 36.3
37. Licensing Sub-Committees	37.1 - 37.5
38. Determination of variations of licences	38.1
39. Approach to setting conditions	39.1 - 39.4
41. Licensing Officer recommendations	41.1 - 41.3

Appendix 5: Model Conditions October 2022

Appendix 6: Procedure at Licensing Sub Committee Hearings

6 Determination

- 6.1 The Sub-Committee is requested to determine the application, giving full detailed reasons for the decision.
- 6.2 In determining the application, the Sub-Committee must have regard to the four licensing objectives on which the Licensing Act 2003 is based. These are:

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

6.3 Members must have consideration to the representations and take such steps it considers appropriate for the promotion of the licensing objectives.

6.4 In achieving this, the Sub-Committee shall disregard information which is not relevant to the application or the promotion of the licensing objectives, and give appropriate regard and weight to evidence i.e. direct evidence is better than circumstantial hearsay (although hearsay is admissible).

7 Legal Considerations

7.1 When considering this matter, the Sub-Committee must have regard to the Home Office guidance. This makes it clear that that the four licensing objectives should be “paramount at all times”. Where there are objections to an application, the Sub-Committee must have regard to these and to the “likely effect” on the licensing objectives of granting the application.

7.2 It is a fundamental principle of the Licensing Act that each application must be considered on its own merits.

7.3 If the Sub-Committee, having considered the application, believe that extra measures are required to promote the licensing objectives, it may attach additional conditions to the licence provided that these are appropriate, reasonable, and proportionate or it may alter or amend any existing conditions. The Sub-Committee must not impose conditions which would be beyond the control of the licence holder. The Sub-Committee should also avoid imposing any conditions which would duplicate other statutory regulations (e.g. Health & Safety legislation, fire regulations, planning).

7.4 The Sub-Committee is advised to take the above matters into consideration when reaching their decision. Members are reminded that they should not consider any irrelevant matters and must confine their deliberations solely to the issues relating to the licensing objectives.

7.5 Under Section 35 of the Act, when determining this application, the Sub-Committee must have regard to the representations received and take such steps as it considers appropriate to promote the licensing objectives.

8 Decision

8.1 That, in accordance with its delegated powers, the Sub-Committee may either:

- a) Grant the application as applied for;
- b) Grant the application subject to modifying the conditions the Sub-Committee considers necessary to promote the licensing objectives;
- c) Reject the whole or part of the application.

8.2 Members of the Sub-Committee may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must be appropriate in order to promote the licensing objectives.

- 8.3 Members of the Sub-Committee are asked to make a decision at the end of the Hearing after all relevant parties have been given the opportunity to be heard. Members must give full reasons for their decision.
- 8.4 In determining the application, the Sub-Committee must give appropriate weight to:
- evidence presented at the hearing;
 - Guidance issued by the Home Office under s.182 of the Act;
 - the Council's Statement of Licensing Policy;
 - any advice given by the Council's Legal Advisor during the hearing.
- 8.5 Any party to the hearing may appeal to the Magistrates Court against the decision of the Licensing Sub-Committee. The appeal must be made within 21 days of the date of notification of the Sub-Committee's decision.

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