

**REPORT TO THE LICENSING SUB-COMMITTEE – 10<sup>TH</sup> MAY 2023 AT 18:30**

**APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT SUNNYDOWN SCHOOL, PORTLEY HOUSE, 152 WHYTELEAFE ROAD, CATERHAM CR3 5ED WHICH HAS ATTRACTED REPRESENTATIONS**

Report of:	Ian Garrod, Licensing Officer - Tel: 01883 732794 <a href="mailto:licensing@tandridge.gov.uk">licensing@tandridge.gov.uk</a>
Purpose of Report:	<p>An application has been made for a premises licence to be granted under the Licensing Act 2003 ('the Act') at Sunnydown School, Portley House, 152 Whyteleafe Road, Caterham, CR3 5ED.</p> <p>During the consultation period, representations were received from members of the public in respect of the application. The representations received have raised concerns that the licensing objectives under the Act have not been met.</p> <p>In accordance with S18(3) 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 either:</p> <ul style="list-style-type: none"><li>a) grants the application as applied for;</li><li>b) grants the application subject to conditions the Sub-Committee considers necessary to promote the licensing objectives;</li><li>c) excludes from the scope of the licence any of the licensable activities to which the application relates; or</li><li>d) rejects the application.</li></ul> <p>Members of the Licensing 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 actually be appropriate in order to promote the licensing objectives. Members will need 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 Premises Licence application</p> <p>Appendix B map of the area around Sunnydown School</p> <p>Appendix C Proposed premises plan</p> <p>Appendix D Representations from members of the public</p> <p>Appendix E Amendment to application from applicant</p> <p>Appendix F e-mail from de Stafford school to Sunnydown School</p>

## 1 Purpose of Report

- 1.1 The supply of alcohol, regulated entertainment and 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 Licensing Sub-Committee (“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 18(3) of the Licensing Act 2003, the licensing authority must hold a hearing to determine an application for the grant of a premises licence where relevant representations have been made and not withdrawn.
- 1.4 The Council 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.

## 2 Background Information

- 2.1 On 14th March 2023, the Licensing Authority received an application for a premises licence to be granted at Sunnydown School, Portley House, 152 Whyteleafe Road, Caterham, CR3 5ED. A copy of the application is attached at **Appendix ‘A’**.
- 2.2 Sunnydown School is a special education school, located on a small road shared with two other school off Whyteleafe Road in Caterham. A map of the area is attached at **Appendix ‘B’**.
- 2.3 The application is to enable events to be held at the school and the grounds. A premises plan is attached at **Appendix ‘C’** outlining the area in red to be licensed.
- 2.4 The licensable activities being applied for include alcohol and regulated entertainment and would allow over 500 people to be in attendance. Details are as follows:
  - The provision of regulated entertainment to include: plays, films, indoor sporting events, boxing or wrestling entertainments, live music, recorded music, performance of dance and anything of a similar description to that falling within live music, recorded music or performance of dance for the following times:

Monday to Sunday 08:00 – 23:00
  - The sale of alcohol for the consumption on the premises for the following times:

Monday to Sunday 12:00 – 23:00
- 2.5 Section M of the application describes the steps to be taken by the applicant to promote the licensing objectives. If granted, and unless modified by the Sub-Committee, the conditions in Section M of **Appendix ‘A’** will be attached to the premises licence.

### 3 Consultation

- 3.1 The consultation period for this application was from 14<sup>th</sup> March to 11<sup>th</sup> April 2023.
- 3.2 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 period. It is confirmed that statutory notices were displayed on the site throughout the consultation period.
- 3.3 There were no objections received from the responsible authorities.
- 3.4 There were four representations received from members of the public in objection to the application being granted. The objections have been deemed relevant by the authority and are attached at **Appendix 'D'**. The objections received are in relation to public nuisance, protection of children from harm and the prevention of crime and disorder:

Objectors Name	Grounds
Gary Clow	Public nuisance
Laura Carey	Public nuisance, Protection of children from harm
Manjeet Rebello (Audley Primary School)	Public nuisance, Protection of children from harm, Prevention of crime & disorder
Maria Wheeler (St Francis Primary School)	Public nuisance, Prevention of crime & disorder

- 3.5 Following receipt of the objections, the applicant provided an amendment to the application (e-mail dated 20<sup>th</sup> April 2023 attached at **Appendix 'E'**) to include the following condition:-
- "The school will run no more than 5 events selling alcohol under this license. Each of these events will be held outside of usual school hours."
- 3.6 If granted, and unless modified by the Sub-Committee, this condition will be attached to the premises licence.
- 3.7 Within the objections it has been stated that granting this application would increase road traffic difficulties in the small cul-de-sac where the three school are located. The applicant has been in correspondence with de Stafford School which is located on a separate road and has a larger parking facility. De Stafford have offered use of their car park on a case-by-case agreement when it is not being used by themselves. This correspondence is attached at **Appendix 'F'**.
- 3.8 On 28<sup>th</sup> April 2023, the licensing authority received correspondence from the applicant that arrangements for parking have been discussed and will be considered for every event to alleviate the concerns raised regarding traffic and parking. The applicant has provided further amendment to the application to include the following conditions:-
- "When Events are taking place, vehicles attending an event will be encouraged to use affiliated parking (such as de Stafford School by negotiation)."

“Vehicles will be directed to a parking area away from the school to prevent usage of the road outside the schools, apart from allocated parking and drop offs for those unable to walk to the entrance or exits of Sunnydown School.”

“There will be clear signage used to direct the traffic for these events including signage to the allocated areas.”

If granted, and unless modified by the Sub-Committee, these conditions will be attached to the premises licence.

- 3.9 Following the amendments made by the applicant in sections 3.5 and 3.7 of this report to include the additional conditions, no objections have been withdrawn at the date of publishing this report.

#### **4 Policy & Guidance – points for consideration**

##### **4.1 Section 182 Guidance**

The Sub-Committee must have regard to the Secretary of States Guidance issued under S182 of the Licensing Act 2003 in April 2018, and pay particular attention to the following paragraphs: -

Chapter 1: Introduction	1.2-1.5; 1.9; 1.16; 1.17; 1.19
Chapter 2: The Licensing Objectives	2.1–2.6; 2.15–2.21
Chapter 8: Applications for premises licence	8.41–8.49; 8.78
Chapter 9: Determining applications	9.31–9.44
Chapter 10: Conditions attached to premises licences and club premises certificates	10.10; 10.13-10.15
Chapter 13: Appeals	13.10
Chapter 16: Regulated Entertainment	16.6; 16.26; 16.28; 16.33; 16.36-16.41; 16.55; 16.56

##### **4.2 Tandridge District Council – Licensing Policy**

The main sections of the Councils Licensing Policy which are particularly relevant to the Sub-Committees decision are set out below and should be considered when determining this application:

- Fundamental principles
- Decision making process
- Premises licences
- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Prevention of harm to children

## **5 Determination**

- 5.1 The Sub-Committee is requested to determine the application, giving full reasons for the decision.
- 5.2 In determining the application, Members 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
- 5.3 Councillors must have consideration to the representations and take such steps it considers appropriate for the promotion of the licensing objectives.
- 5.4 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).

## **6 Legal Considerations**

- 6.1 When considering this matter, Members must have regard to government guidance. This makes it clear that the four licensing objectives should be “paramount at all times”. (Home Office Guidance 1.4). 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.
- 6.2 It is a fundamental principle of the Licensing Act that each application must be considered on its own merits. (Guidance 1.17).
- 6.3 If Members, 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. (Guidance 1.16). The Sub-Committee should also avoid imposing any conditions which would duplicate other statutory regulations (e.g. Health & Safety legislation, fire regulations, planning).
- 6.4 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.
- 6.5 Under Section 18(4) of the Act, when determining this application, the Sub-Committee must – having regard to the representations received - take such steps as it considers appropriate to promote the licensing objectives.

6.6 The options for the Sub-Committee are to:

- a) grant the application as applied for
- b) grant the application subject to conditions the Sub-Committee considers necessary to promote the licensing objectives
- c) exclude from the scope of the licence any of the licensable activities to which the application relates
- d) reject the application.

6.7 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.

6.8 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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