

# Application for the grant of a Premises Licence in respect of Highworth Town Junior Football Club, Sands Grounds, Swindon Road, Highworth SN6 7ES

Licensing Panel

Date: 14 July 2014

Author: Kathryn Ashton, Licensing Manager

Wards Affected: Highworth

## Purpose

To consider the application for the grant of a premises licence in respect of Highworth Junior Football Club, The Pavilion, Sands Grounds, Swindon Road, Highworth

## Recommendation

The Licensing Committee is asked to determine the application, in light of the representations received from Environmental Health and residents, defined as 'other persons' under the Licensing Act 2003. The options available to the Committee are:

- To grant the application in its current form with conditions consistent with the operating schedule;
- To grant the application but to modify the conditions by amending, omitting or attaching new conditions; or
- To reject the application in whole or in part.

## 1. Reasons

- 1.1 The Licensing Panel has a statutory duty to undertake the functions of the Licensing Authority, where these have been delegated by the Licensing Committee.

## 2. Detail

- 2.1 An application for the grant of a Premises Licence has been received from Highworth Junior Football Club, The Pavilion, Sands Grounds, Swindon Road, Highworth, Swindon.

- 2.2 A copy of the application is attached as **Appendix A**.

- 2.3 The application seeks to the following licensable activities:

### Sale of Alcohol

Monday to Sunday inclusive 10.00 – 00:00

### Plays, Films, Indoor Sporting Events

Monday to Sunday inclusive 10.00 – 00:00

### Recorded Music and Live Music

Monday to Sunday inclusive 10.00 – 00:00

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### Late Night Refreshment

Monday to Sunday inclusive

23.00 – 05.00

### Opening Hours

Monday to Sunday inclusive

10.00 – 00.00

- 2.4 The applicant has included a number of measures within the operating schedule in order to promote the Licensing Objectives. These are included within Part M of the application form attached as **Appendix A**
- 2.5 Representations have been received from other persons who consider that the granting of the application would undermine the prevention of public nuisance and ensuring public safety. Copies of these representations are attached as **Appendix B**.
- 2.6 A representation has also been received from Environmental Health who consider that should the application be granted in its current form it would undermine the licensing objective in respect of ensuring public safety. This representation is attached as **Appendix C**
- 2.7 Highworth Town Junior Football Club currently hold a premises licence for the Pavilion and this licence will need to be surrendered should any new licence be granted. There cannot be more than one Premises Licence in force for the same premises authorising the same licensable activities and times.
- 2.8 The existing premises licence is attached to the report as **Appendix D**.
- 2.9 There is a temporary event notice which has been received for an event to be held at Highworth Town Junior Club Pavilion and field on 12 July 2014, authorising regulated entertainment and sale of alcohol. The event is described as a charity music event utilising the bar in the main pavilion with 2 stages outside for live music. There have been no representations in respect of this application.
- 2.10 There are planning restrictions on the use of the pavilion such that it is restricted to a changing room/coaching/committee room in association with use of the adjacent recreation ground. There have nevertheless not been any representations from the Planning Authority in respect of the application for a grant of a Premises Licence and this is for information only and not to be taken into account in the determination of this application.
- 2.11 The Panel is requested to consider the application to vary the premises licence on its merits, having regard to the Swindon Borough Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

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Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail [kashton@swindon.gov.uk](mailto:kashton@swindon.gov.uk).

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- 2.12 Having regard to the information put forward by the applicant and the representation made by the responsible authority, the Sub-Committee must take such steps (if any) that it considers appropriate for the promotion of the licensing objectives. The steps, as set out in section 35(4) of the Licensing Act 2003 are:
- To modify the conditions of the licence, whether by alteration or omission or by the addition of new conditions; or
  - To reject the application in whole or in part.
- 2.13 The hearing itself can be deferred to a specified date (or dates) where it is considered to be necessary for the authority's consideration of any representation or notice made by a party - The Licensing Act 2003 (Hearings) Regulations 2005;
- 2.14 The determination of the application must be made within the period of five working days beginning with the day (or the last day) on which the hearing is held - The Licensing Act 2003 (Hearings) Regulations 2005
- 2.15 The powers described in 2.12 and 2.13 above should only be exercised where it is exceptionally necessary.

## **3. Alternative Options**

- 3.1 None.

## **4 Implications, Diversity Impact Assessment and Risk Management**

### *Financial and Procurement Implications*

- 4.1 There are no direct financial implications arising from the report. In the case of a successful appeal against a Council decision, the Council could become liable for costs if the decision was found to be irrational.

### *Legal and Human Rights Implications*

- 4.2 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

### *All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)*

- 4.3 This report relates to the requirements of Licensing legislation

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*Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

- 4.4 The determination of the application will be made in accordance with set legal principles. The exercise of licensing powers by the Panel relates particularly to the LAA outcome of reducing crime and the fear of crime.

*Diversity Impact Assessment*

- 4.5 There is no DIA prepared in conjunction with this report

*Risk Management*

- 4.6 There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the Policy is found not to comply with the requirements of the Licensing Act 2003 and associated legislation, regulations and guidance.

## **5 Consultees**

- 5.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## **6 Background Papers**

- 6.1 Licensing Act 2003
- 6.2 Swindon Borough Council's Statement of Licensing Policy
- 6.3 Amended Guidance Issued Under Section 182 of the Licensing Act 2003 (*October 2012 & July 2013*)

## **7 Appendices**

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| Appendix A | Application for grant of a Premises Licence          |
| Appendix B | Representations received from 'other persons'        |
| Appendix C | Copy of the representation from Environmental Health |
| Appendix D | Copy of the current Premises Licence                 |