

CAMBRIDGE CITY COUNCIL

REPORT OF: The Licensing Officer

TO: Licensing (2003 Act) Sub-Committee 15th May 2006

APPLICATION: Application for new Premises licences:
Midsummer Common

WARD: Market

1 INTRODUCTION

1.1 To consider and determine this application for a new premises licence for Midsummer Common, taking into account the representations of the responsible authority detailed in paragraph 4, the interested parties detailed in paragraph 5 of the report and the policy considerations detailed in paragraph 6 below.

1.2 Liz Bissett, Debbie Kaye and Alistair Wilson of Cambridge City Council (Active Communities) are seeking the following:

Sale/supply of alcohol (on and off the premises)

Mon – Sun 12.00 to 22.00

Hours premises are open to the public

Hours not stated

Plays, films, provision of facilities for entertainment of a similar description to making music or dancing (indoors and outdoors), sporting events (indoors)

Mon – Sun 10.00 to 22.00

Live Music (indoors and outdoors) (not exceeding 14 days in a 12 month period. Circus performances of approx 2 hours duration for no more than 10 consecutive days)

Sun - Fri 12.00 to 22.00

Sat 12.00 to 23.00

Recorded music, performance of dance, anything of similar description to live music recorded music or dance, provision of facilities for making music, provision of facilities for dance (indoors and outdoors) (not exceeding 14 days in a 12 month period. Circus performances of approx 2 hours duration for no more than 10 consecutive days)

Sun - Fri 10.00 to 22.00

Sat 10.00 to 23.00

- 1.3 A copy of the relevant application and plans are attached at Appendix A.
- 1.4 There have been pre-hearing discussions between the applicant and the Environmental Protection Manager (EPM). At the time of writing this report, these negotiations were still ongoing with a number of areas where an agreement had not been reached. Consequently a representation has been raised by the EPM and is attached as Appendix B. Discussions will continue between both parties and an oral update will be given at the hearing concerning the conditions relating to the prevention of public nuisance objective.
- 1.5 This application was received on 30th March 2006. It therefore needs to be decided by 26th May 2006 to meet the statutory timescale for the determination of applications.
- 1.6 The Sub-Committee's decision must be made with a view to promoting one or more of the four licensing objectives, namely:
 - (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.

2 BACKGROUND

2.1 Midsummer Common is classified as a Common located in an urban landscape in the centre of the city. The landscape setting affords the park opportunities to host large events in a variety of formats and scale. In previous years the venue has hosted a series of events including Funfairs, Strawberry Fair, Midsummer Fair, London to Cambridge Bike Ride and the Bonfire Night celebration. Cambridge City Council Active Communities are seeking a premises licence to allow the continuation of open space events. The application seeks to permit established events and to allow flexibility to consider new or reformatted events. The intention is to use the open space for the provision of leisure, culture and sport. Midsummer Common has the capacity to hold large events and the applicant is requesting a capacity of no more than 14,999 expected to be engaged in regulated entertainment at any one time. There are no planning restrictions for the site.

2.2 Current licences held for the premises:

This is a new application under the Licensing Act 2003. The site has previously had the benefit occasional licences granted under the "old regime" for public entertainment by the Council and alcohol by the Magistrates' Court.

3. LICENSING OBJECTIVES ADDRESSED BY APPLICANT

3.1 The Operating Schedule submitted by the applicant in part Q of the application addresses the four licensing objectives. The applicant has proposed a number of steps, in support of the licensing objectives and these are contained in Schedules A-D of the application. Para 5.67 of the Guidance states that 'proposals contained in the operating schedule to promote the licensing objectives should be translated into clear and understandable conditions consistent with the proposals in the operating schedule'

The following would be considered understandable conditions:

Crime & Disorder

As submitted in Schedule A of the application
The mandatory condition regarding door supervisors will be added.

Public Safety

As submitted in Schedule B of the application

The prevention of public nuisance

The protection of children from harm

As submitted in Schedule D of the application.
The mandatory condition regarding films will be added.

In respect of the prevention of public nuisance objective, the applicant has submitted Schedule C of the application as proposed conditions. The EPM has suggested a number of alternative ones in his representation.

4. REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

- 4.1 A representation has been received from the Environmental Protection Manager, attached as Appendix B. The EPM has particular concerns surrounding regulated entertainment events involving recorded and live music and has suggested 21 conditions in the representation. These are aimed to promote the prevention of public nuisance objective and ensure that events are controlled and managed in such a way as to minimise the impact on the locality. The EPM is also suggesting the number of events involving regulated entertainment be limited to 18, of which no more than 6 shall have amplified recorded and/or live music. The duration of these events shall be for no more than one day and not consecutive days, apart from Circus events which shall be permitted for 10 consecutive days.
- 4.1 No representations have been received from Planning, Cambridgeshire Fire & Rescue, Cambridgeshire Constabulary, Health and Safety, Child Protection and Trading Standards, the remaining Responsible Authorities.

5. REPRESENTATIONS FROM INTERESTED PARTIES

- 5.1 Thirteen representations attached at Appendix C have been received from "interested parties" defined as: a person living in the vicinity of the premises; a body representing persons living in that vicinity; a person involved in the business in that vicinity and a body representing persons involved in such a business. Members should note that the letters are attached in their entirety and that not all matters raised are relevant matters for consideration under the Licensing Act 2003. The representations refer to all four objectives. Issues include noise disturbance, the provision of alcohol and excessive drinking, disorder and safety, the volume of people, traffic created by the influx of people, camping, litter and vandalism. A request is made that the interests of residents living in the area be properly protected. A number of conditions are suggested

regarding policing, generators, amplified music, toilets, access, camping and that events should end at 22.00. Committee will need to consider the above and the additional restrictions/protections suggested by the EPM towards alleviating these concerns.

6 POLICY CONSIDERATIONS

6.1 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy and any statutory guidance issued under Section 182 of the Licensing Act 2003.

6.2 **The Council's Statement of Licensing Policy:** the following sections/paragraphs are applicable to this application:

- Objectives, section 2.4
- Fundamental principles 4.1 – 4.3
- Licensing Hours, sections 6.1 & 6.3
- Licence Conditions, sections 8.1 – 8.7
- Integrating Strategies, section 9. In particular, 9.8 states 'to ensure that cultural diversity thrives, the Council will consider seeking premises licences from the Licensing Authority for public spaces within the community in its own name'.

6.3 **The Statutory Guidance:** the following sections/paragraphs are applicable to this application:

Section 5.70 and 5.73 – 5.77 covers interested parties and the relevance of representations. Section 5.77 recommends that in borderline cases the benefit of doubt should be given to the interested party making the representation. The subsequent hearing would provide an opportunity for the person to amplify and clarify it. If it then emerged that the representation should not be supported, the licensing authority could decide not to take any action.

The Guidance states that the Licensing Act 2003 does not affect the continued use of the powers of an environmental health officer in respect of statutory noise nuisance under the Environmental Protection Act 1990. However these general duties will not always adequately cover specific issues arising in connection with, for example, certain types of entertainment. It is only where additional and supplementary measures are necessary to promote the licensing objectives that necessary, proportionate conditions will need to be attached to a licence. If existing law places responsibilities on the employer/operator of the premises, then it cannot be necessary to impose the same or similar duties on the premises licence (Section 7.13).

Sections 7.38 – 7.46 of the Guidance covers public nuisance. Section 7.38 considers it important that licensing authorities focus on impacts of the licensable activities at the premises on persons living and working in the vicinity that are disproportionate and unreasonable.

Annex G (page 164) covers conditions relating to the prevention of public nuisance. The Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. The provisions of Part 8 of the Licensing Act 2003 enable the

police to close premises that are causing nuisance resulting from noise emanating from the premises. The Secretary of States guidance states that these matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Committee will need to consider the above in deciding whether to attach any conditions in addition to those referred to in 3.1 above.

- 6.4 Members should only impose conditions, which are necessary and proportionate for the promotion of the licensing objectives (3.17). Conditions which are imprecise or difficult to observe should be avoided (7.7).

7. CONCLUSIONS

- 7.1 The Licensing Authority has a duty under the Licensing Act 2003 by promoting the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The Council must also fulfill its obligations under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Cambridge.

8. OPTIONS

- 8.1 Members should, having regard to the representations, take such steps as they consider are necessary for the promotion of the licensing objectives. The steps are to grant the licence subject to conditions consistent with the operating schedule, modified as necessary, to exclude a licensable activity, or reject the application. Conditions are modified if they are altered, omitted or any new condition added. (Licensing Act 2003 section 18(4) & (5)).

9 RECOMMENDATION

- 9.1 That members' determine the application on its individual merits.

BACKGROUND PAPERS:

The following are the background papers that were used in the preparation of this report:

Guidance issued under section 182 of the Licensing Act 2003

The Council's Statement of Licensing Policy

To inspect these documents contact Christine Allison on ext. 7899.

The author and contact officer for queries on the report is Christine Allison on extension 7899.

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Midsummer Common

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