

LICENSING SUB – COMMITTEE

18 March 2019

Report of the Head of Environmental Health and Licensing

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Application: Application for new Club Premises Certificate

Premises: Oakwood Park Recreation Ground
Oakwood Avenue
Otterbourne
Hampshire
SO21 2ED

Part A. Report

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Part A.**1. Application**

Applicant: Colden Common Football Club

Premises: Oakwood Park Recreation Ground, Oakwood Avenue,
Otterbourne, Hampshire, SO21 2ED

- 1.1 This application is for a new Club Premises Certificate under Section 71 the Licensing Act 2003 for Colden Common Football Club, which is a qualifying club under Section 61 and entitled to apply for a Club Premises Certificate.
- 1.2 The application is to specifically licence the pavilion building on the Oakwood Park Recreation Ground site. This building is not listed as an address on the Council's Gazetteer but the application applies to this building only (see plan in Appendix 1 and map in Appendix 3).
- 1.3 The application is for the provision of regulated entertainment (consisting of recorded music, indoors only) and the supply of alcohol to members and their guests only.
- 1.4 The application initially proposed live music as a licensable activity; however, the applicant removed this from the application during the consultation period in an effort to minimise disturbance to local residents.
- 1.5 The application initially proposed hours for supply of alcohol on Christmas Eve and New Year's Eve as 1100hrs to 0030hrs. However, the applicant reduced these to a terminal hour of 2300hrs in an effort to minimise disturbance to local residents.
- 1.6 The premises has been previously been licensed by Otterbourne Sports Club for supply of alcohol and regulated entertainment. This Club Premises Certificate was valid from November 2005 before its surrender in November 2016.
- 1.7 During the consultation period a number of conditions were agreed between Hampshire Constabulary and the applicant, based on the Operating Schedule in the application. These are reflected in Section 5 of this report.
- 1.8 No representations have been received from Responsible Authorities. Representations have been received from 18 'Other Persons', all of which are against the application. These representations are set out in Appendix 2.

- 1.9 Notice of the application was displayed outside of the premises (Oakwood Park Recreation Ground Pavilion Building) for a period of 28 days until Monday 25 February 2019, and advertised in the Hampshire Chronicle on Thursday 7 February 2019.
- 1.10 Notice of the application was also displayed, by arrangement between the applicant and Otterbourne Parish Council, on all Parish Council noticeboards and on their website. The applicant also published details of the application in an Otterbourne Village Facebook group.
- 1.11 Mr Steve Twamley, on behalf of Colden Common Football Club, arranged an informal drop-in session for all interested parties to discuss the application and their related concerns. This was held on Thursday 21 February 2019, 18:00 to 20:00, at Oakwood Park Recreation Ground. An invitation to this was sent to all interested parties by the licensing authority on Mr Twamley's behalf. 18 people attended and one representation was withdrawn as a result.
- 1.12 Notices of the hearing were sent to all Parties on 27 February 2019.

Designated Premises Supervisor

A Designated Premises Supervisor (DPS) is not required for a Club Premises Certificate.

Steps to promote the Licensing Objectives

Please see Appendix 1, Section 15 of 17.

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

Environmental Health

No representations received.

Hampshire Constabulary

Hampshire Constabulary had concerns with regard to the prevention of crime and disorder and protection of children from harm licensing objectives. As a result, conditions were agreed with the applicant, as shown in Section 5 of this report (pages 7-11). No representations were received.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Building Control

No representations received.

Head of Safety Standards

No representations received.

Public Health Manager

No representations received.

Licensing Authority

No representations received.

3. Representations from Other Persons

Representations have been received from 18 interested parties, all of which are against the application. The main concerns are with regard to the prevention of public nuisance.

4. Observations

The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the valid representations.

The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives:

1. Grant the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and the mandatory conditions;
2. Exclude from the scope of the licence any of the licensable activities to which the application relates;
3. Reject the application.

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy Part 4, A8)

Licensing Objectives

Crime and Disorder

The Sub-Committee should consider any appropriate conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy 1.9, 2.11, 2.17 and Part 4 Section A)

Public Safety

The Sub-Committee should consider any appropriate conditions relating to public safety having regard to the relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, B2, B3)

Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise pollution from the premises relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

5. Conditions

Mandatory Conditions

The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

– effective from 1 October 2014

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a times limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carried a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 (3) 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 either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

4. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other an 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: 25ml or 35ml; and
 - (iii) still wine in a glass: 125ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014
– effective from 28 May 2014

- 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2. For the purposes of the condition set out in paragraph 1-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula- $P = D + (D \times V)$ where-
 - (i) **P** is the permitted price,
 - (ii) **D** is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence-
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph 2 applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Possible Conditions

If the application is granted, the Sub-Committee may wish to consider the following conditions to reflect the Operating Schedule.

The Committee will be aware that many health and safety requirements are enforceable under their own substantive legislation and thus these have not been suggested as conditions under Public Safety.

Those conditions in italics are those which have been suggested by Hampshire Constabulary and agreed with the applicant.

Operating Hours

1. The hours the premises may be used for regulated entertainment shall be:

Recorded Music - Indoors		
(i)	Monday to Thursday	1800 to 2200
(ii)	Friday and Saturday	1800 to 2300

2. The hours the premises may be used for the supply of alcohol shall be:

Supply of Alcohol (for consumption on the premises only)		
(i)	Monday to Thursday	1800 to 2200
(ii)	Friday	1800 to 2300
(iii)	Saturday	1300 to 2300
(iv)	Bank Holidays	1300 to 2300
(v)	Christmas Eve	1100 to 2300
(vi)	New Years Eve	1100 to 2300

3. The hours the premises may open for other than Licensable Activities shall be:

(i)	Monday to Thursday	1800 to 2200
(ii)	Friday	1800 to 2300
(iii)	Saturday	1300 to 2300

All Licensing Objectives

A1. Guests

- (i) *The Club Premises Certificate Holder shall ensure a written register is kept at the premises in which all guests will be signed in by an existing member of the club.*
- (ii) *The full name of the guest, their full address along with the full name and membership details of the member whose guest they are will be recorded.*
- (iii) *Each member of the club will be permitted to sign in a maximum of 2 guests at any one time. Guests may only remain on the premises when the member who has signed them in is present.*
- (iv) *This register must be kept for a minimum of 12 months and made available to Police and other responsible authorities on request.*

A2. Training

- (i) *The Club Premises Certificate Holder shall ensure that a training package is in place in order for all staff involved with the sale or supply of alcohol to be sufficiently trained in licensing matters proportionate to their role and aware of their responsibilities.*
- (ii) *Particular attention should be paid to underage sales / ID verification and the refusal of alcohol sales to a drunk person.*
- (iii) *Records shall be kept of this training, dated and signed by the staff member and the trainer. Refresher training shall be completed at least every 12 months with documented records made and to be available for inspection from Police and other responsible authorities.*

Crime and Disorder

- CD1. The Club Premises Certificate Holder shall ensure that clear notices warning against engaging in any potential criminal activity that may affect customers are displayed.

- CD2. *The Club Premises Certificate Holder shall ensure a written 'Zero Tolerance' policy around the possession and use of illegal drugs is implemented and maintained. The staff will be trained and familiar with this policy. This training shall be documented and available for inspection from Police and other responsible authorities.*
- CD3. *The Club Premises Certificate Holder shall ensure that a refusals book / incident book or log is maintained at the premises. These records shall be retained for a minimum of 1 year and be made available to the Police and other responsible authorities upon request.*

Public Nuisance

- PN1. The Club Premises Certificate Holder shall ensure that clear and legible notices are displayed at the exit of the premises, requesting that the customers respect the nearby residents and leave the premises quietly.
- PN2. The Club Premises Certificate Holder shall ensure that deliveries are carried out at such a time so as not to cause nuisance or disturbance to nearby residents.
- PN3. The Club Premises Certificate Holder shall ensure that movement of bins and rubbish outside the premises is kept to a minimum after 23:00hrs.
- PN4. The Club Premises Certificate Holder shall ensure that lighting installed on or outside of the premises will be positioned in such a way so as not to cause disturbance to the nearby residents.
- PN5. The Club Premises Certificate Holder shall ensure that adequate waste receptacles are made available for use by customers.

Protection of Children

PC1. *ID – Challenge 25*

The Club Premises Certificate Holder shall ensure that a system is in place to ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises, shall produced acceptable means of identification and age confirmation. Acceptable identification shall be:

- *A passport*
- *Photo driving licence*
- *PASS accredited photo ID*

If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

6. Other Considerations

Council Strategy Outcome (Relevance To:)

This report relates to the fourth Strategic Outcome; 'Improving the quality of the District's environment' by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

Resource Implications

A licence fee of £100.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application
2. Representations by Other Persons
3. Map showing premises location