

BABERGH DISTRICT COUNCIL

**FROM: HEAD OF NATURAL AND BUILT
ENVIRONMENT DIVISION**

REPORT NUMBER K105

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 01 October 2010

LICENSING ACT 2003 - HEARING REPORT

1. SUMMARY:

1.1 To determine an application made under the provisions of the Licensing Act 2003 by:

Sudbury Hockey Club

in respect of:

The Pavilion

The Cricket Ground, Quay Lane, SUDBURY, Suffolk CO10 2AN

The hearing is to determine an application for the grant of a NEW Club Premises Certificate (i.e. for the benefit of club members and guests only) made under section 71 of the Licensing Act 2003. A copy of the application and accompanying plans are attached as **Appendix 1**. For the avoidance of any doubt this type of licence authorisation would not permit licensable activities for the public generally. Whilst a permanent permission request, it would be limited to take effect for the period from the second Monday in September to the second Monday of April of each year.

2. RECOMMENDATIONS:

2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- To grant the certificate subject to conditions (as may be modified) which are consistent with the club operating schedule submitted by the applicant;
- To exclude from the scope of the certificate any of the qualifying club activities that have been applied for;
- To reject the application.

2.2 Members of the sub-committee should note that they may, where it is deemed necessary and proportionate for the promotion of the licensing objectives, alter, omit or add new conditions within the club's operating schedule.

2.3 The sub-committee is able to determine this application.

3. THIS APPLICATION:

- 3.1 The applicant is Sudbury Hockey Club, and the person performing duties as secretary to the club is Ms Louise Palmer. The main contact from the Club in respect of this application has been Mr Andrew Stopps. The Pavilion contains bar, lounge, toilets, changing facilities, dining area and kitchen. It is proposed that external areas of bench seating and patio will be used for the consumption of alcohol in addition to indoor areas. **Appendix 1** attached contains all application documentation including plan of premises and club rules.
- 3.2 No Designated Premises Supervisor (DPS) or personal licence holders are required in respect of Club Premises Certificates. The Club Committee as a body is responsible for arrangements relating to the sale and supply of alcohol to members and guests.
- 3.3 Generally, the application seeks to authorise the supply of alcohol to club members, the sale of alcohol to bona fide club guests plus obtain limited regulated entertainment activities for the benefit of members and guests of the hockey club. It should be noted that the Sudbury and District Cricket Club already hold a Club Premises Certificate (number BCP0030) for the Pavilion although there is currently a variation application in progress to reduce this to the April to September period (coinciding with the Cricket season) with the Hockey Club to then operate under their own separate permission for the remainder of the year.
- 3.4 The Sudbury Hockey Club has completed declarations and provided club rules that show the Club is a 'qualifying club' as defined by the Licensing Act 2003 – and therefore able to benefit from a Club Premises Certificate (if granted).
- 3.5 Other than background recorded music, the application seeks to authorise amplified music activities (specified as a disco and a singer) on no more than two occasions during the annual 6 month duration of the certificate. It also proposes to hold a single fundraising race night event in the same period. None of these activities will be outdoors. The application also proposes to limit alcohol activity on a Friday and Sunday to a maximum of six occasions (for each day) during the validity of the certificate, to coincide with televised sporting events or cup competition matches.
- 3.6 The latest hours proposed for licensable activities within the application would be midnight on a Saturday, with the premises closing at the same time.
- 3.7 The statutory advertisements required under the Act have been published and on display. The newspaper advertisement appeared in the Suffolk Free Press on 19 August 2010, and the following consultees, as Responsible Authorities under the 2003 Act, have been served with a copy of the application and plans:

RESPONSIBLE AUTHORITY:	RESPONSE:
1. Chief Officer of Police	Confirmed no objection.
2. Local Fire Authority	No representations or objection.
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	No representations or objection.
4. Environmental Health	Mediated agreements reached – see para 3.9 below

RESPONSIBLE AUTHORITY:	RESPONSE:
5. Local Planning Authority	No representations or objection.
6. Area Child Protection Committee	As Police response. No objection.
7. Any other Licensing Authority	Not applicable.
8. Trading Standards	No representations or comments.

3.8 Representations have been received during the statutory period from ‘interested parties’ as defined by the 2003 Act. These are attached as **Appendix 2** and are submitted by the following persons:

- John Hedge, 50 Friars Street, Sudbury CO10 2AG
- Kern Gerden, Quay Cottage, 6 Quay Lane, Sudbury CO10 2AN

3.9 Mediation agreements, resulting in additional voluntary controlling conditions, have been reached between the Club and the Environmental Protection Officer. Accordingly, the following four additional controls also now apply to the application:

- (i) All external doors and windows to the building shall be kept shut during the playing of amplified music save to permit access to and egress from the building (appropriate air conditioning should be installed if necessary);
- (ii) Use of the outside area for drinking is to finish no later than 23:30hrs on all occasions;
- (iii) The volume control of recorded music or any amplification equipment shall be under the direct control of a responsible individual as nominated by the Club for that purpose, with provision made for the sound to be turned down at the direct request of an authorised officer of the Licensing Authority or a Police Officer; and
- (iv) Notices shall be displayed at points of exit requiring patrons to leave the area quietly.

4. GUIDANCE AND POLICY CONSIDERATIONS:

4.1 The sub-committee is referred generally to section 2 – ‘The Licensing Objectives’, section 6 - ‘Club Premises Certificates’, section 9 - ‘Determining Applications’ and section 10 - ‘Conditions Attached to Premises Licences and Club Premises Certificates’ of the Central Government Guidance (as revised March 2010) in respect of this application.

4.2 The Government Guidance issued under section 182 of the Licensing Act 2003 advises that duplication with other statutory provisions is to be avoided (sections 1.16 and 10.15-10.18 refer) and that any conditions deemed necessary to attach to a licence/certificate must be proportionate and focus on relevant measures that are within the direct control of the licence holder.

4.3 Licensing law is not the primary mechanism for the general control of individuals once they are away from the licensed premises and beyond the direct control of licence/certificate holders (section 1.26 refers). Any conditions imposed must not be aspirational and must be within the control of the licensee/Club (section 1.27).

4.4 The sub-committee should have due regard to all relevant sections of the Council’s Statement of Licensing Policy in respect of the determination of this application.

4.5 The sub-committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 for the applicant and Articles 8 and 1 of Protocol 1 for those raising representations - when determining applications for the grant of a new licence.

5. EQUALITY AND DIVERSITY IMPACT:

5.1 There are no Equality and Diversity implications.

6. THE ISSUE(S):

6.1 The Licensing Act 2003 came into full effect on 24.11.2005. The four underlying objectives of the legislation are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

These are the **only** grounds upon which an application may be refused, or if deemed necessary, conditions may be attached to a licence.

6.2 Members will note that the issues in respect of this application involve:

- Balancing the interests of operators, employees, customers and neighbours of licensable premises.

7. PROCEDURE TO BE FOLLOWED AT HEARING:

7.1 A copy of the 'Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received' is attached to the Agenda.

8. APPENDICES REFERRED TO:

- (a) Appendix 1: Application together with club premises plans and club rules
- (b) Appendix 2: Representations
- (c) Appendix 3: Site plan showing approximate locations of interested party objectors

MALCOLM FIRTH
Head of Natural and Built Environment Division

CONTACT: Lee Carvell
Principal Licensing Officer

email: lee.carvell@babergh.gov.uk