

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Sub-Committee (2003 Act)
AUTHOR/S: Director Health & Environmental Services

13 February 2018

APPLICATION TO VARY A PREMISES LICENCE MALTHURST LTD, HARSTON

The Application

1. The application (**APPENDIX A**) to vary a licence for the MRH Harston, 123 High Street, Harston, Cambridge CB22 7QB, was received by the licensing section on the 20th December 2017. The requirements for advertising and displaying relevant notices were carried out in accordance with the Licensing Act 2003.

The application is for the Variation of a Premises Licence.

The requested days and times applied for are to extend current hours to become 24 hours 7 days a week for Opening Hours, Sale of Alcohol and Late Night Refreshment.

Background

2. The premises are in a central location positioned on the High Street of the village adjacent to dwellings with shared boundaries. The nearest residential properties are 119 High Street and residential property to the rear and left hand side of the premises.
(Map & Plan attached as **APPENDIX B**).

The application was met with concerns from the Parish Council and residential properties located nearby, and representations were received from both.

Within the representations attached, particular mention is made with respect to planning.

Members are advised that the 2 regimes are set apart and any planning matters should not force the committee to automatically reflect any planning decision in the licensing remit. Each application must be determined on its individual merits in line with the four licensing objectives; The Prevention of Crime & Disorder, the Prevention of Public Nuisance, Public Safety and Protection of Children From Harm.

For clarity officers can confirm the following:-

The Refusal was for the following reasons:

“Variation of condition 8 of planning permission ref S/0767/90/F to allow for increased hours of use of the site during weekday and Saturday mornings is considered to substantially harm the residential amenity of the occupants of 125a and 125b High Street, through adverse noise and disturbance from

general use of the forecourt and through light pollution arising from night time illumination of the site. To this end the proposals are considered contrary to the policies NE/14 and NE/15 of the South Cambridgeshire Local Development Framework, Development Control Policies DPD 2007, which seek to ensure that there is no unacceptable adverse impact on neighbouring or nearby properties from lighting and that there is no unacceptable adverse impact upon indoor and outdoor acoustic environment of neighbouring properties.”

Relevant Representations

3. Representations had been received from:

- Local Residents
- Harston Parish Council.

The representations submitted by the Residents and Parish Council relate to Public nuisance and Public Safety objectives, guidance from the SCDC Licensing Policy and Secretary of State Guidance is offered on these matters in Paragraph 5.

Officer's Views

4. Members when considering the application should be aware that they may only take into consideration the parts of the application that represent a variation

Members should also be aware of the Secretary of states guidance under S182 of the Licensing Act 2003 which states:-

Public nuisance retains its broad common law meaning for the purpose of this Act. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbances affecting the whole community. It may also include in appropriate circumstances the reduction of there living and working amenity and environment of interested parties in the vicinity of the premises. Beyond the vicinity of the premises these are matters for personal responsibility of individuals under the law.

The Guidance goes on to state:-

It is essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder cannot be justified and will not serve to promote the licensing objectives

Policy Considerations

5. Conditions referred to within the South Cambridgeshire Licensing Policy relating to the prevention of public nuisance and Public Safety:

a) *Consideration may be given to conditions that ensure that:*

- 1) *Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties*

- 2) *Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.*
- 3) *The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in the surrounding areas are restricted.*
- 4) *The placing of refuse - such as bottles- into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.*
- 5) *Noxious smells from the licensed premises are not permitted (subject to existing legislation not providing adequate measures) so as to cause a nuisance to nearby properties and the premises are properly vented.*
- 6) *Flashing or particularly bright lights on or outside licensed premises (any such condition must be balanced against the benefits of providing lighting to promote the prevention of crime and disorder).*

b) Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or club premises certificate for the prevention of public nuisance:

- 1) *Conditions may be placed on premises restricting (other than where they are protected by the transitional provisions of the Act) the hours during which premises are permitted to be open to the public or to members and their guests.*
- 2) *Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times.*
- 3) *Restrictions may be necessary on parts of a premise used for certain licensable activities at certain times..*

Conditions Relating to Public Safety (including fire safety)

Conditions relating to public safety will be those that are necessary to promote the objective of public safety for individual premises or clubs. They should not duplicate other legal requirements. Equally the attachment of conditions to a premises licence or club premises certificate will not relieve employers of the statutory duty to comply with the requirements of Health and Safety legislation and the requirements under the management of Health and Safety at Work regulations 1999 and the Fire Precautions (Workplace) regulations 1997 to undertake risk assessments.

Legal Implications

6. All parties will maintain a right of appeal to a Magistrate's Court after the determination of this committee.

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