

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing (2003 Act) Sub-Committee 20 April 2010
AUTHOR/S: Executive Director, Operational Services / Principal Environmental Health Officer

APPLICATION FOR PREMISES LICENCE: SECRET GARDEN MARQUEE, BURWASH MANOR, NEW ROAD, BARTON

The Application

1. The application (**APPENDIX A**) for premises known as Secret Garden, Burwash Manor Farm, Barton was received by the licensing section on the 1 March 2010. The requirements for advertising and displaying relevant notices were carried out in accordance with the Licensing Act 2003, and to the satisfaction of the Licensing Officer.

Background

2. The premises is a permanently erected "T" shaped marquee measuring 60ft by 20ft and the leg of the "T" being a further 20ft by 20ft. The outside part of the application is within the walled garden within the grounds of Burwash Manor Farm. Burwash Manor Farm itself is a private building occupied by Mr Radford with a number of outbuildings that have been converted for use as office and retail space predominantly used during normal office hours. There are residential properties bordering the boundary of the farm (see **APPENDIX B**). There is car parking available in an adjacent field to the premises, which is accessible via an entrance from New Road.
3. Mr Radford has had previous events at the marquee as referred to in a number of representations, some of which were covered by Temporary Events and some which appeared to be unlicensed. Following complaints during 2009, Mr Radford was contacted by the Licensing section and advised that to continue to hold events without either a Temporary Events Notice or a premises Licence would result in a report being filed with a view to prosecution under the Licensing Act 2003 (**APPENDIX C**). This has led to the application being submitted as outlined in this report.
4. The application is for: -
 - **To allow the provision of Plays (Indoors & Outdoors)**
Monday to Sunday 16.00 hours to Midnight
 - **To allow for the provision of Films (Indoors & Outdoors)**
Monday to Sunday 16.00 hours to Midnight
 - **To allow Live Music (Indoors & Outdoors)**
Monday to Sunday 10.00 hours to Midnight
 - **To allow Recorded Music (Indoors & Outdoors)**
Monday to Sunday 10.00 hours to Midnight
 - **To allow Performance of Dance (Indoors & Outdoors)**

- Monday to Sunday 16.00 hours to Midnight
- **To allow Anything of a Similar Description to (e), (f) or (G) (Indoors & Outdoors)**
Monday to Sunday 12.00 hours to Midnight
- **To allow the Provision of Facilities for Dancing (Indoors & Outdoors)**
Monday to Sunday 12.00 to Midnight
- **To allow Provision of facilities for entertainment of a similar description falling within (i) or (J) (Indoors & Outdoors)**
Monday to Sunday 12.00 hours to Midnight
- **To allow Late Night Refreshment (Indoors & Outdoors)**
Monday to Sunday 23.00 hours to 01.00 am
- **To allow the Supply of Alcohol (On the Premises)**
Monday to Sunday 10.00 hours to 00.30 hours (Midnight +30 Mins)
- **To allow Premises Open to Members of the Public**
Monday to Sunday – 08.00 to 02.00

Relevant Representations

5. Representations had been received from:

Local Residents
Environmental Health
Letters attached as (**APPENDIX D**)

Officer's Views

6. When considering the application, the Sub-Committee should be aware that they must consider the individual merits and where representations have been made it is only the representations that relate to one of the four licensing objectives that may be taken into consideration, namely:-
- Prevention of public nuisance.
 - Prevention of crime and disorder.
 - Public safety.
 - Protection of children from harm.

Each objective is of equal importance

7. The Sub-Committee is also reminded they have three options when determining the application:
1. Reject the application
 2. Approve the application
 3. Modify the application in respect of times, activities or conditions, or any variation as they deem appropriate and proportionate.
8. When considering the application, regard should be given to the particular characteristics of the premises, in this case a marquee rather than a brick built building and the differing impact it may have on the local community.

9. When considering the application the Sub-Committee are guided to the guidance issued by Central Government under S.182 and South Cambridgeshire's Licensing Policy

Policy Considerations

10. Guidance issued under section 182 of the Act outlines a number of conditions that may be used to promote the four objectives. Whilst this list is not exhaustive it is an indication to applicants of the conditions that may be considered appropriate in individual cases.
11. It should be noted that in addition to any relevant conditions placed on a premise that it is unlawful under the 2003 Act:
 - 1) To knowingly sell or supply or attempt to sell or supply alcohol to a person who is drunk
 - 2) To knowingly allow disorderly conduct on licensed premises
 - 3) for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
 - 4) To allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements will therefore be unnecessary

Conditions relating to the prevention of public nuisance.

- 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.*

2. Conditions relating to Crime and Disorder

a) Door Supervisors (registered with the Security Industries Authority)

The Local Authority recognises that in applications where door supervisors are referred to in the operating schedule conditions relating to door supervisors are mandatory. Where conditions are attached relating to the provision of door supervisors and security they may be valuable in:

1. preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
2. keeping out excluded individuals (subject to court bans or bans imposed by licence holder);
3. Searching and excluding those suspected of carrying illegal drugs or carrying offensive weapons and;
4. maintaining orderly queuing outside venues

Where door supervisors are to be a condition of a licence they are required to be licensed through the Security Industries Authority in line with the Securities Industry Act 2000.

b) Bottle bans

It is recognised that glass vessels (ie bottles and glasses) may be used as weapons inflicting serious harm during incidents of disorder. Conditions may include:

1. No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar
2. No customer carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

In appropriate circumstances conditions may exempt bottles containing wine or similar sold for consumption with a table meal by customers who are seated in a separate area from the bar.

c) CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions may include:

1. The need to have CCTV cameras on the premises
2. The precise positioning of each camera
3. The requirement to maintain cameras in good working order
4. The requirement to retain recordings for an appropriate period.

d) *Other conditions that may be considered relevant to promote the reduction of crime and disorder may include:*

1. Restriction on drinking areas
2. Capacity limits
3. Proof of age cards
4. Crime prevention notices
5. Signage at or immediately outside the premises
6. Use of plastic containers and toughened glass

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.

Conditions enforcing these arrangements will therefore be unnecessary.

Where existing legislation does not provide adequately for the safety of the public consideration may be given to conditions covering:

a) *Disabled people*

- 1) ***Adequate arrangements to enable their safe evacuation in the event of an emergency.***
- 2) ***Disabled people on the premises are made aware of those arrangements***

b) *Escape routes*

- 1) ***All exit doors are easily openable without the use of a key, card, or similar means***
- 2) ***Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept.***
- 3) ***Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff***
- 4) ***All fire doors are maintained effectively self closing and shall not be held open other than by approved devices (For example, electromagnetic releases operated by smoke detectors).***
- 5) ***Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut.***
- 6) ***The edges of treads of steps and stairways are maintained so as to be conspicuous.***

c) *Safety Checks*

- 1) ***Safety checks are carried out before the admission of the public and details of such checks are kept in a log book.***

d) *Curtains, Hangings, Decorations and upholstery*

- 1) ***Hanging, curtains and temporary decorations are maintained in a flame-retardant condition***
- 2) ***Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1, and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990.***
- 3) ***Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs, or fire fighting equipment.***
- 4) ***Temporary decorations are not used without prior notification to the Licensing Authority/Fire Authority.***

e) *Accommodation limits*

- 1) ***Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded***
- 2) ***The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.***

f) *Fire action notices*

- 1) ***Notices detailing the actions to be taken in the event of a fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration***
- 2) ***In the case of an outbreak of fire the fire brigade must be called at once to any outbreak, however slight and the details recorded in a Fire Log Book – to be kept available for inspection by the Council or an authorised officer***
- 3) ***The local Fire Control Centre is notified as soon as possible if the water supply to any fire extinguishing equipment is cut off or restricted.***

g) *Access for emergency vehicles and first aid.*

- 1) ***Access for emergency vehicles is kept clear and free from obstruction.***
- 2) ***Adequate and appropriate supply of first aid equipment and materials is available on the premises***
- 3) ***At least one suitably trained first-aider shall be on duty when the public are present and if more than one suitably trained first-aider that their respective duties are clearly defined.***

H *Lighting*

- 1) ***In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present***
- 2) ***Fire safety signs are adequately illuminated***
- 3) ***Emergency lighting is not altered***
- 4) ***Emergency lighting batteries are fully charged before the admission of the public, guests and members***
- 5) ***In the event of failure of normal lighting where the emergency lighting has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged. If the emergency lighting battery has a capacity of***

three hours the appropriate period by the end of which the public should have left is one hour.

K) *Alterations to premises*

- 1) ***Alterations that make it impossible to comply with an existing condition to premises should be notified to the Local Authority***
- 2) ***The holder of the premises licence should apply for a variation to the existing licence should any alterations make it impossible to comply with any existing condition.***

Conditions relating to the protection of children from harm

a) Age Restrictions – specific

1. The hours of day during which age restrictions may or may not apply. For example, the fact that adult entertainment may be present at premises in the evening does not mean that it would be necessary to impose age restrictions for earlier parts of the day.
2. Types of event or activity where consideration for age restrictions may be appropriate include “Happy Hours” or drinks promotion nights or activities of an adult nature.

b) Age Restrictions – Cinemas

1. That when films are classified, by either the Film Classification Body as specified in the licence or the Licensing Authority they will be classified in the following way:
 - U – Universal, suitable for audiences four years and over
 - PG – Parental Guidance. Some scenes may be unsuitable for young children.
 - 12A – Passed only for viewing by persons aged over 12 years or older or persons younger than 12 years when accompanied by an adult.
 - 15 – Passed only for viewing by persons aged 15 years and over
 - 18 – Passed only for viewing by persons aged 18 years of age and over
2. Conditions may require that immediately before any exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited for at least 5 seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the board or, as regards a trailer advertising a film, of the statement approved by the board indicating the classification of the film.
3. Conditions that where the Local Authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises to make people aware of the classification attached to any film or trailer.

c) Conditions relating to Children`s access to Theatres and performances especially for children.

- 1) Types of event or activity where consideration for age restrictions may include activities of an adult nature.
- 2) Conditions may require a sufficient number of adult staff on the premises to ensure the well being of children on the premises during any emergency
- 3) Where performances are presented especially for unaccompanied children in theatres and cinemas, conditions requiring an attendant be stationed in any area occupied by the children, in the vicinity of each exit or subject to a minimum of one attendant per 50 children on each level occupied by children.

d) Children in performances

- 1) Venue – The backstage facilities should be large enough to accommodate safely the number of children taking part in any performance
- 2) Fire safety – All chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- 3) Special effects – It may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights which may trigger adverse reactions especially with regard to children.
- 4) Care of Children- Children performing at such premises should be kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises.

e) Proof of Age cards

Conditions may be attached to premises where alcohol is sold requiring the production of proof of age cards before any sale of alcohol takes place.

The Portman Group operates a code of practice on the naming, packaging and promotion of Alcoholic Drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older. Via its website and in the trade press it issues bulletins notifying retailers of products that breach this code and asks them not to re-stock or display any such product or point of display material until such time as the code is complied with.

In certain circumstances it may be necessary to attach conditions requiring premises to comply with the Portman Group Code of Practice.

Legal Implications

12. All parties will maintain a right of appeal to a Magistrates Court after the determination of this committee.

Contact Officer: Myles Bebbington – Licensing officer
Telephone: (01954) 713024