

# Crawley Borough Council

## Report to Licensing Sub-Committee

Tuesday 12<sup>th</sup> February 2019

Licensing Act 2003

### Application to vary the 'Club Premises Certificate' (CPC) applicable to the

#### CRAWLEY MASONIC CLUB

St Margaret's Hall

Ifield Green

Crawley

#### Report of the Head of Community Services –HCS/12

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#### 1. Purpose

1.1 On the 20<sup>th</sup> December 2018, an application to vary the above mentioned authorisation was submitted to the Council as the Licensing Authority for the Borough of Crawley. **Appendix A**  
Copy of the Application

1.2 The application is to vary the 'club premises certificate' to:-  
(I) Extend the supply of alcohol to 01.00hrs Mon – Sat  
Sunday hours to remain.  
(II) Extend opening hours to 02.00hrs Mon – Sat  
Sunday hours to remain.

1.3 The application was advertised in accordance with the Licensing Act 2003 and regulations and a number of relevant representations were made in respect of it.

#### 2. Recommendations

2.1 Having regard to the representations, members must take such of the steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives. Section 85(4)(a)&(b)  
Licensing Act 2003

2.2 The steps are:  
(i) to modify the conditions of the certificate  
(ii) to reject the whole or part of the application.

and for this purpose the conditions of the certificate are modified if any of them are altered or omitted or any new condition is added.

### **3. Reasons for the Recommendations**

- 3.1 Where an application is received to vary a 'club premises certificate' (CPC) in accordance with legislation and no representation is received the Crawley Borough Council (the Council) must grant the application. Section 85 Licensing Act 2003
- 3.2 Where relevant representations are made a hearing must be held to determine the application. The Act provides that which steps the Council may take, which are those specified above in paragraph 2.2. Section 85(3) Licensing Act 2003

### **4. Background**

- 4.1 The Council is the relevant licensing authority in relation to any premises within the Borough of Crawley which is to be used for one or more licensable/qualifying activities in accordance with the Licensing Act 2003 (the Act).
- 4.2 The CRAWLEY MASONIC CLUB is an authorised premises, operating as such since 2005 with a 'club premises certificate' (CPC) subject to the stated terms and conditions under the Act. Appendix B Copy of the current club premises certificate
- 4.3 The Club has 'qualifying club activities' authorised by a certificate to include 'supply of alcohol' for members and guests on the premises, recorded music and performance of dance within the stated hours.

### **5. Details of the Application**

- 5.1 On the 20<sup>th</sup> December 2018, an application to vary its CPC was submitted to the Council.
- 5.2 The application proposes to vary the CPC: Appendix A Copy of the Application
- (i) To extend the supply of alcohol as follows:  
Mon – Sat 11.00 - 01.00hrs (currently 11.00 to 23.00)  
(The application does not seek to vary the current hours for the supply of alcohol on Sundays or holidays.)
  - (ii) To extend the opening hours  
Mon – Sat 10.00 - 02.00hrs (currently 10.00 to 01.00)  
(The application does not seek to vary the current opening hours for Sundays or holidays.)
- 5.3 The variation application does not seek any other changes to the CPC.

### **6. Relevant Representations**

- 6.1 The application was advertised in accordance with the Licensing Act 2003 and regulations which resulted in the following relevant representations being submitted.

## 6.2 **Responsible Authorities**

### 6.2.1 **Environmental Services:-**

Appendix C

The representation states in summary:

- According to their records Environmental Health (Pollution) has not received any noise complaints concerning these premises.
- They are aware some other representations refer to loud music but Environmental Health have no evidence to support or counter such claims.
- As the proposed changes only relate to the sale of alcohol and no extension of regulated entertainment Environmental Health (Pollution) therefore have no objection to this application.

A copy of the representation is attached as Appendix C.

### 6.2.2 **West Sussex Fire & Rescue Service:**

Appendix D

The Fire Authority's representation states that it has no objection to the application.

A copy of the representation is attached as Appendix D.

### 6.2.3 **Sussex Police:-**

Appendix E

The representation states that having considered the application the Police propose additional conditions be attached to the CPC if the application to vary is granted. The applicant has confirmed to the Council that they agree to the additional conditions proposed by the Police.

A copy of the representation is attached as Appendix E.

## 6.3 **Other Persons**

### 6.3.1 The following representations were also submitted by a number of people who identified as residents living in the vicinity of the premises:-

Mr. John Byng:- Appendix F

copy attached as Appendix F

Mr Alan Dunn:- Appendix G

copy attached as Appendix G

Mr Rory Ferguson:- Appendix H

copy attached as Appendix H

Miss Deepa Patel:- Appendix I

copy attached as Appendix I

Mrs Lisa Pickford:- Appendix J

copy attached as Appendix J

Ms Jacqueline Smith:- Appendix K

copy attached as Appendix K

Mr Chris Smyth:- Appendix L

copy attached as Appendix L

Mr Matthew Weeks:- Appendix M

copy attached as Appendix M

## **7. Information & Analysis Supporting Recommendation**

### **7.1 Statutory Guidance (s182) Licensing Act 2003**

When making its decision, the Sub-Committee must have regard to guidance issued by the Secretary of State (Statutory Guidance). Set out below is some relevant extracts from the Statutory Guidance.

Section 4(3)(b)  
Licensing Act 2003

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|--------|---|----------------------------|
| 7.1.1  | “Clubs are organisations where members have joined together for particular social, sporting or political purposes. They may then combine to buy alcohol in bulk as members of the organisation to supply in the club.”  | S182 Guidance<br>Para 6.2  |
| 7.1.2  | “Technically the club only sells alcohol by retail at such premises to guests. Where members purchase alcohol, there is no sale (as the member owns part of the alcohol stock) and the money passing across the bar is merely a mechanism to preserve equity between members where one may consume more than another.”  | S182 Guidance<br>Para 6.3  |
| 7.1.3  | “A qualifying club is permitted under the terms of a club premises certificate to sell and supply alcohol to its members and their guests only.”  | S182 Guidance<br>Para 6.6  |
| 7.1.4  | “As well as their own members and guests, qualifying clubs are also able to admit associate members and their guests (i.e. members and guests from another ‘recognised club’) to the club premises when qualifying club activities are being carried on without compromising the use of their club premises certificate.”   | S182 Guidance<br>Para 6.10 |
| 7.1.5  | “The arrangements for applying for or seeking to vary club premises certificates are extremely similar to those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these could have no adverse impact on the licensing objectives”   | S182 Guidance<br>Para 6.11 |
| 7.1.6  | “As well as Responsible Authorities, any ‘other person’ can play a role in a number of licensing processes under the Licensing Act 2003. Any representations made by these persons must be ‘relevant’, in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. | S182 Guidance<br>Para 8.13 |
| 7.1.8  | “Where an application is submitted to vary a certificate licensing authorities may wish to consider whether there is any likely impact on the promotion of the licensing objectives.”   | S182 Guidance<br>Para 8.75 |
| 7.1.10 | “The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.”   | S182 Guidance<br>Para 9.43 |

7.1.11	<p>“At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.”</p>	S182 Guidance Para 11.2
7.2	<p><b>Extracts from the Licensing Act 2003</b></p> <p>Relevant extracts from the Licensing Act 2003 are set out below.</p>	
7.2.1	<p>Having regard to the representations, the Licensing Authority must take such of the steps (if any) as it considers appropriate for the promotion of the licensing objectives.</p> <p>The steps are:</p> <ul style="list-style-type: none"> <li>(i) to modify the conditions of the certificate</li> <li>(ii) to reject the whole or part of the application.</li> </ul> <p>and for this purpose the conditions of the certificate are modified if any of them are altered or omitted or any new condition is added.</p>	
7.2.2	<p>There are four licensing objectives:-</p> <ul style="list-style-type: none"> <li>(i) The prevention of crime &amp; disorder</li> <li>(ii) Public Safety</li> <li>(iii) The prevention of public nuisance</li> <li>(iv) The protection of children from harm</li> </ul>	Section 4 Licensing Act 2003
7.2.3	<p><u>Review Provisions</u></p> <p>Where a clubs holds a ‘club premises certificate’ a Responsible Authority or any other person may apply to the licensing authority for a review of the certificate. This is subject to legislative requirements and will be considered, providing the grounds are relevant to one or more of the licensing objectives, are not frivolous, vexatious or repetitious.</p>	Section 87 Licensing Act 2003
7.3	<p><b>Policy Considerations</b></p> <p>Section 5 of the 2003 Act requires a licensing authority to prepare and publish a Statement of Licensing Policy at least every five years. In discharging its functions the Council must have regard to its policy. Some of the relevant sections are summarised below.</p>	Sections 4(3)(a) and 5 Licensing Act 2003
7.3.1	<p>“The aim of the policy is to promote the licensing objectives set out in the Act, whilst securing the safety and amenity of residential communities and facilitating a sustainable entertainment and cultural industry.”</p>	CBC Statement of Licensing Policy 1.2
7.3.2	<p>“The Council recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run premises providing entertainment to the local economy and vibrancy of the borough.”</p>	CBC Statement of Licensing Policy 1.7

7.3.3	<p>“The Council recognises that licensing is about control of licensed premises, qualifying clubs and temporary events, within the terms of the Act. The terms and conditions attached to various permissions will be focused on matters which are within the reasonable control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.”</p>	CBC Statement of Licensing Policy 2.4
7.3.4	<p>The Policy states that the Council will primarily focus on the direct impact the activities taking place at authorised premises may have on members of the public living, working or engaged in normal activity in the area concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the reasonable control of the individual, club or business holding a licence, certificate or relevant permission.</p>	CBC Statement of Licensing Policy 2.5
7.3.5	<p>The Policy states the key controls in respect of preventing crime and disorder arise from good operational planning and good management of activities at the premises.</p>	CBC Statement of Licensing Policy 2.10
7.3.6	<p>The essential purpose of the licence / certificate is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives. The Council will not, therefore, seek to use, conditions attached to licenses to manage the behaviour of customers once they are beyond the direct management of the premises and their staff or agents.</p>	CBC Statement of Licensing Policy 2.11
7.3.7	<p>The Policy states that conditions will be used if they can control issues that directly impact on the behaviour of those under the licensee’s direction, when on the premises or in the immediate vicinity of the premises as they seek entry or leave.</p>	CBC Statement of Licensing Policy 2.14
7.3.8	<p>The Policy states that it will look to the Police as the main source of advice on matters relating to the reduction of crime and disorder objective and this advice will be given considerable weight.</p>	CBC Statement of Licensing Policy 2.14
7.3.9	<p>The Council will ensure that representations made by the statutory bodies and the police in respect of individual applications should be given considerable weight.</p>	CBC Statement of Licensing Policy 2.49
7.3.10	<p>Once an authorisation is issued, it remains in place for the life of the business: there is no “annual renewal” of the authorisation, but applications are required to pay an annual fee to cover the Council’s costs concerning the exercise of its statutory obligations under the Act as set out in the statute. However, should problems arise, it is possible for representations to be made to the Council, to review the authorisation.</p>	CBC Statement of Licensing Policy 7.1
7.3.11	<p>The Policy states that the Council intends to use the review procedures effectively to deter crime. Where reviews arise and the Council determines that the crime prevention objective is being undermined through the premises being used to further crimes, we will seriously consider that revocation of the licence/certificate, even in the first instance</p>	CBC Statement of Licensing Policy 7.6

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| 7.3.12 | The only conditions which should be imposed on a premises licence or club premises certificate are those which are appropriate and proportionate for the promotion of the licensing objectives. Accordingly, if other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder or club. | CBC Statement of Licensing Policy 8.2  |
| 7.3.13 | The Council recognises that non-profit making clubs make an important and traditional contribution to the life of the community and bring significant benefits. Their activities also take place on premises to which the public do not generally have access and they operate under codes of discipline applying to members and their guests.   | CBC Statement of Licensing Policy 3.34 |
| 7.3.14 | In determining what conditions should be included in certificates, the Council will bear these matters in mind and when considering representations from responsible authorities and interested parties, we will bear in mind that conditions should not be attached to certificates unless they can be demonstrated to be appropriate.  | CBC Statement of Licensing Policy 3.35 |
| 7.3.15 | The Council will also bear in mind that the indirect costs of conditions will be borne by individual members of the club and cannot be recovered by passing on these costs to the general public as would be the case for commercial enterprises or where a club had chosen to carry on the licensable activities at their premises for the public under the authority of a premises licence.                                    | CBC Statement of Licensing Policy 3.36 |
| 7.3.16 | It should be noted that certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements on premises licences described in our policy.  | CBC Statement of Licensing Policy 3.37 |
| 7.3.17 | Where a premises licence holder or club premises certificate holder wishes to amend the licence/certificate, the Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence/certificate. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives.  | CBC Statement of Licensing Policy 3.38 |
| 7.3.18 | “A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one or more of the licensing objectives. A representation that fails to do this is not “relevant” for the purposes of the Act. ...”   | CBC Statement of Licensing Policy 6.5  |
| 7.3.19 | “Decisions as to whether representations are relevant will not be made on the basis of any political judgement which would undermine a natural approach to the issue....”  | CBC Statement of Licensing Policy 6.7  |

## **8. Implications**

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| 8.1 | There are no extra staffing or financial implications to the Council, save for those in respect of possible appeal(s). |
| 8.2 | The Council is required to consider the impact any decision may have on an individual’s Human Rights.                  |

8.4 The Council is required to consider the impact any decision may have on crime and disorder in the area (Section 17, Crime and Disorder Act, 1998) which states as follows:

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and
- (b) the misuse of drugs, alcohol and other substances in its area: and
- (c) re-offending in its area.

## 9. **Background Papers**

- Copy of the s182 Guidance (April 2018)
- Current Statement of Licensing Policy

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