

Licensing Sub-Committee Report



Application for a New Premises Licence

Premises	Olney Rugby Football Club, Recreation Ground, East Street, Olney
Applicant	Olney Rugby Football Club Committee
Date of Application	17 February 2020
Application Reference	154893
Report Author	James Sloan Licensing Officer 01908 252801

Exempt / confidential / not for publication

No

1. Application and Current Authorisation

- 1.1 This is an application for a new Premises Licence (attached at **Annex A**), served by the Olney Rugby Football Club Committee. The application, if granted, would permit the following:

Live, recorded music and anything similar

0900 - 0100 hrs

Sale of alcohol on and off the premises

0800 - 0100 hrs

Late Night Refreshment

2300 - 0130 hrs

The licensed areas would be the 'events room' in the club, the external patio, the 'shed' and the first team rugby pitch, as indicated on the application plan. The sale of alcohol and provision of regulated entertainment would be permitted outside, but restrictions would apply. There would be no external provision of regulated entertainment outside after 2300hrs, other than a maximum of two occasions per year. The Police have agreed a condition with the club to only permit off sales of alcohol from

the 'shed' to be provided to those attending rugby matches or club events. Environmental Health have agreed that should relevant noise complaints be received; a noise limiter would be installed at the premises.

- 1.2 **Annex B** shows the club already hold a Club Premises Certificate to supply alcohol and provide regulated entertainment to members and guest between 1000 - 0100 hrs. The application for the premises licence can be considered very similar to the club premises certificate. There will be an increase in the hours for sale of alcohol to 0800 in the morning. The intention of this is to cover unusual timings for international rugby tournaments, such as those experienced in Japan 2019 World Cup.
- 1.3 However the main change is that as a premises licence application, if granted, this would permit the club to sell alcohol and provide regulated entertainment to members of the public, as opposed to club members and guests only. The club has served Temporary Event Notices in the past to allow for the provision of licensable activities to members of the public. This application would in part negate the need for the Club to continue doing so. The Members will want to question the club about this further as it will not be possible to condition or guarantee this intention of the club.
- 1.4 The application contains a relatively comprehensive operating schedule.
- 1.5 The applicant has offered some conditions to add to the application in respect of monitoring noise breakout. These should be explored further at the Sub-Committee hearing.
- 1.6 The applicant has advised that the reason for the application was to remove the need to have to apply for Temporary Events Notices, and to permit a greater degree of flexibility in inviting non-members to the premises. The applicant has stated that they do not envision there to be a considerable change, if any, in the operation of the club, other than this application will enable them to host public events. Members will note in paragraph 5.3 below, that following an inspection, the application for a premises licence was advised as some of the events being held were likely to be unsuitable under a club premises certificate.
- 1.7 The application was advertised correctly both in the newspaper and via the blue notice erected at a range of locations on the site. The public consultation letter was issued to residents in the surrounding area.
- 1.8 Within the 28 day consultation period the Council received representations from two responsible authorities and six other persons. For assistance, a site map showing the premises and its neighbouring buildings is included at the end of **Annex C**.

2. Responsible Authorities

- 2.1 The Licensing Authority received a representation from Environmental Health, suggesting a condition (attached at **Annex D(i)**). This was subsequently agreed by the applicant and will form part of the operating schedule:

If management controls are not sufficiently robust so as to prevent repeated and justified complaints of noise from amplified music on the licenced premises, then an electronic sound limiting device shall be used to play all amplified music through from that point in time. The Licensing, or Environmental Health Department, will determine whether complaints are justified and whether management controls have been sufficiently robust. If this condition is enacted, the Licensing or Environmental Health Department will set the level at which the sound limiter operates.

- 2.2 The Licensing Authority received a representation from the Thames Valley Police (attached at **Annex D(ii)**), again suggesting a condition, which was again agreed by the applicant and will form part of the operating schedule:

All off sales shall be in sealed containers, save for off sales sold to persons partaking in premises-run events / activities on the pitches adjacent to the licensed area.

3. Other Persons

- 3.1 The Council received five representations from other persons who were objecting to the application. A further one representation in support of the application and one additional representation was resolved following discussion with the club. They are all attached at **Annex E**.
- 3.2 Concerns include the length of time for potential drinking and entertainment. Current problems with noise and behaviour of clients of the club and the overall application to permit seven days of drinking until 0100 hrs.
- 3.3 The applicant has responded to those residents making representations by means of a letter. Generally the correspondence has sought to explain that the application would not reflect a significant change in the operation of the club, rather it would remove the requirement to serve Temporary Event Notices. There has also been the offer to ensure noise break out from events inside the club will not be heard by local residents. This is not a condition that can be effectively enforced, as similar proposals have failed in court previously. It would be more realistic for Members to impose conditions relating to ensuring doors and windows are kept shut and access to the smoking area is restricted to the front doors of the premises during entertainment.

- 3.4 None of the remaining five local residents making representations have confirmed that they are willing to withdraw their representations at this stage. All have been asked whether there were any particular measures that could be taken to resolve their concerns.
- 3.5 A representation in support of an application is unusual and is detailed for completeness.

4. Operating Schedule/Conditions

- 4.1 As part of the application process the applicant is required to complete an “operating schedule” stating the steps that they will take to promote the licensing objectives. These steps will form conditions on the licence if granted.
- 4.2 The Sub-Committee may suggest conditions to be attached to the licence during the hearing. The conditions will endeavour to consider the concerns raised by the residents and attempt to detail measures to alleviate those concerns and thus promote the licensing objectives.

5. Officer Observations

- 5.1 The Club has held a Club Premises Certificate for 15 years, and although this is an application for a new licence, Members will want to consider the history of the Club on this site. The Council have not recorded many complaints against the Club. A concern of ASB and underage drinking was reported in January 2015.
- 5.2 More recently in July 2019, music from a marquee which remained in place for some time and likely to have been operating without correct authorisation. No direct complaints were received about the event however it was highly likely to have caused a disturbance in the locality.

The Club accepted a formal warning in respect of this matter and it has been closed.

- 5.3 The Licensing Authority inspected the Club in November 2019 and spent some time discussing what the Club wanted to provide and how it can do so legally. The Club did have some responsible measures in place, and though not required to, resolved to provide a number of committee members with personal licence qualifications to increase the Club’s knowledge (of course for the premises licence, a personal licence holder is required to be the DPS). The Club acknowledged that some of the more public facing events such as their ‘Foodie Friday’, the Rugby Sevens, the May Ball, and also some general parties or funeral wakes would be difficult to operate legally under the Club Premises Certificate, and that they should either serve Temporary Event Notices or obtain a premises licence.

In making this application, the Club is attempting to ensure it is providing activities with the correct authorisation. This does not mean the application should be granted automatically, the issues raised by the local residents certainly suggest additional controls are required to ensure that in particular regulated entertainment is provided in a manner that does not unreasonably disturb local residents.

- 5.4 The applicant has been receptive to amending the operating schedule and would no doubt be willing to engage with residents to add further controls. Such controls may include keeping doors and windows closed during regulated entertainment, and preventing use of the rear doors of the premises after a particular hour at night.

The condition agreed with Environmental Health will give the Club the opportunity to manage the noise breakout themselves, but does then provide a robust alternative control, should the Club prove unable to do so.

It should be noted that any event in a Marquee will likely cause a noise disturbance to the immediate area, especially if it is playing music until 0100 hrs. This would only be permitted on two occasions a year and Members would need to determine whether this is reasonable or not.

- 5.5 The premises has been in-situ for many years. New houses have been built in the locality relatively recently. Whilst residents would no doubt be aware of the Club when they moved in, the Club still has a responsibility to promote the Licensing Objectives and cannot use the defence that “they were here first”.

- 5.6 It is also relevant for the Sub-Committee and parties to the hearing to understand the difference between a premises licence and a Club Premises Certificate. A premises that holds a premises licence can be open to and serve any member of the public. A club, operating under a Club Premises Certificate, can only supply alcohol to its members and their guests. Members and guests are subject to club rules. A member of public is not subjected to such rules when they enter a premises licenced premises. So in theory the clientele of a Club are ‘easier’ to control and consequently the club has less strict controls. Under a Premises Licence, there must be a named Designated Premises Supervisor who must hold a personal licence and therefore will have a greater knowledge of the Licensing Act 2003.

- 5.7 The Club has recently been awarded ‘The Queen’s Award for Voluntary Service’. A copy of the Award letter is attached at **Annex F**.

6. Determination of the Application by the Sub-Committee

- 6.1 The Sub-Committee is required to determine the application in accordance with the Act and must, having regard to the representations, take such steps that it considers appropriate for the promotion of the Licensing Objectives.
- 6.2 The steps that the Sub-Committee can take are:
- (a) modify the conditions of the licence;
 - (b) reject the application or part of the application; or
 - (c) grant the licence as applied.
- 6.3 The four Licensing Objectives are:
- (a) The Prevention of Crime and Disorder.
 - (b) Public Safety.
 - (c) The Prevention of Public Nuisance.
 - (d) The Protection of Children from Harm.
- 6.4 When carrying out its functions under the Act, and determining an application, the Licensing Authority must have regard to the Guidance issued by the Home Secretary under section 182 of the Act and its own Statement of Licensing Policy.

7. Guidance issued by Home Secretary under the Licensing Act 2003

- 7.1 Extracts from the Guidance appropriate to this application are attached at **Annex G**. A full copy is available online or from the Licensing Team.

8. Milton Keynes Council Licensing Policy

- 8.1 Extracts from the Council's Statement of Licensing Policy relevant to this application are attached at **Annex H**. A full copy is available online or from the Licensing Team.

Background Papers

Milton Keynes Council Statement of Licensing Policy 2018-2023.

Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 - April 2018