



SPELTHORNE BOROUGH COUNCIL

Please reply to:

Contact: Gillian Scott

Service: Committee Services

Direct line: 01784 444243

E-mail: g.scott@spelthorne.gov.uk

Date: 18 January 2019

DECISION NOTICE

In accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee: 14 January 2019

Applicant: The Thames Club Ltd

Premises: Wheatsheaf Park
Wheatsheaf Lane
Staines-upon-Thames
TW18 2PD

REASON(S) FOR HEARING: Relevant representations received from interested parties concerning Prevention of Crime and Disorder and Prevention of Public Nuisance:-

- anti-social behaviour from people leaving the premises late at night
- noise and disturbance from people leaving late at night and waiting for transport

DECISION

Granted subject to addition of conditions

With effect from 14 January 2019

REASONS FOR DECISION

1. The application is for a Premises Licence at the Thames Club in Wheatsheaf Lane, Staines-upon-Thames, TW18 2PD.

Attendance

2. Eight people attended the Sub-Committee hearing to make representations. They were:

- Piers Warne: Solicitor to the applicant
- Peter Williams: Managing Director, the Thames Club
- Michelle Yates: Bar manager for the Thames Club
- Leslie Spearpoint – Senior Environmental Health Officer
- Muriel O'Donnell - resident
- Jill McKenzie - resident
- Steve Waterfield - resident
- Peter Skinner - resident

3. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing including:

- the report of the Deputy Chief Executive outlining the matter to be considered;
- written representations from a responsible authority (Environmental Health) and 5 interested parties and oral evidence at the hearing from four of these.

Application

4. An application had been made for the following licensable activities:

- a. Regulated entertainment and supply of alcohol**
Monday-Thursday and Sundays 10am to 10.30pm
Friday and Saturday 10am to 11pm
- b. Films**
Monday to Sunday 10am to 10.30pm
- c. Late night refreshment**
Friday and Saturday 11pm to 11.30pm
- d. Opening hours**
Monday to Thursday 5am to 11pm
Friday and Saturday 5am to 11.30pm
Sunday 10am to 11pm

Non-Standard timings

For all the above activities: from the end of permitted hours on New Year's eve to the start of permitted hours on New Year's day.

Regulated entertainment events, Late night refreshment and sale and supply of alcohol can take place on 8 occasions per year until midnight. Live and recorded music to finish at 23.30 on those 8 occasions.

EVIDENCE

Background

5. The premises are a health and fitness club with function rooms for hire. The Site Plan appended to the Report denotes several areas for licensable activities: Lounge, Swans Meeting Room, Mind and Body Studio and Sports Bar. It is also the home of Staines Town Football Club (the football club). The premises is located in a residential area.
6. Thames Club Ltd held a premises licence following a Sub-Committee hearing in September 2009 until the licence was transferred to the football club in May 2017. A Notification of Interest on the licence was held by Thames Club Ltd until May 2018.
7. Thames Club took back operation of the premises' bar from the football club on 1 September 2018. The football club revoked permission for Thames Club to trade under that premises licence on 24 October 2018. Since then any events at the premises involving licensable activities have been held under Temporary Event Notices (TENS). The Premises Licence held by the football club was appended to the Report; however it was not currently being traded.
8. Thames Club Ltd were applying for a second premises licence at the same location to permit the provision of licensable activities without the need to resort to TENS at their premises. This was intended to be the predominant operating licence.
9. The application seeks on the whole to replicate the Premises Licence held by the football club.
10. As there will be two applicable premises licences which can be used in respect of the premises, the Police had proposed the following two conditions which were agreed by the applicant prior to the hearing:

- a) whilst more than one premises licence is in effect at the premises a register will be held on the premises detailing a list of events that are held and outlining which premises licence is being used for each event. This is for clarity under the Licensing Act 2003 and so that that a single point of responsibility can clearly be identified; and
 - b) whilst more than one premises licence is in effect at the premises for the duration of each event, a notice will be displayed on the premises which is clearly visible to the public detailing which premises licence is authorising the event being held.
11. There have been two recorded complaints to Environmental Health relating to events being held at the premises on 13 and 20 October 2018. Prior to this the Council had not received a complaint since 2016. The complaints concerned noise from people leaving Thames Club late at night/early in the morning and anti-social behavior by some of those people.
12. As a result of the complaints made in October 2018, the Council had sent log sheets to one of the complainants but these had not been returned. The Report set out the applicant's responses to the issues raised by the complaints.
13. It was noted that there is a planning condition in relation to this premises which permits it to open during the following hours:

Monday -Thursday	6.30am – 10.30pm
Friday	6.30am – 11.00pm
Saturday	8.00am – 11.00pm
Sunday	8.00am - 10.30pm

Applicant

14. The applicant's solicitor, Mr Warne, stated that the premises predominantly trades as a health, fitness and wellbeing club for its members. The premises has a bar, lounge and other facilities that can be used by members and booked for meetings and events.
15. He stated that there was a current premises licence in place for the premises held by Staines Town Football Club but that it was not being traded. It was intended that the licence for the Thames Club would become the predominant operating licence at this premises.
16. Mr Warne advised that a condition had been agreed with the Police prior to the hearing to ensure that it was clear to all persons under which licence any licensable activity at the premises was taking place.

17. Mr Warne referred to the evidence bundle which the applicant had submitted in advance of the hearing and which had been circulated to all parties. This document addressed the following points:
- a. Further detail about the circumstances leading to the complaints as a result of events held on 10 October 2015, 13 and 20 October 2018.
 - b. The applicant will not hold events for birthdays for persons between the ages of 18 and 21 years and offered an additional condition in this regard:
 - c. "The manager or event booker at the premises will not book or otherwise host any birthday parties for persons between 18 and 21 years of age."
 - d. Implementation of a Risk Assessment for events held at the premises where licensable activities are to take place. The Risk Assessment document appended to the bundle would be used to assess each event individually and grade its risk and ensure that where appropriate door supervisors are provided at events.
 - e. As the premises trades mainly as a health and fitness club with much longer trading hours than for licensable activities, the closing of the gates is not linked directly to the operation of the premises for licensable activities. Gates are closed once all staff have left the premises.
 - f. Implementation, following receipt of representations, of a Dispersal Policy to be used during licensable events at the premises. The Policy would encourage attendees waiting for taxis to wait at the premises which would not lock up until they had gone.
 - g. Perimeter checks for music noise are carried out by the bar manager at the start of regulated entertainment in order to ensure that there is no music outbreak that would disturb residents. They are repeated once every 30 minutes to one hour during the entertainment. These checks have been documented since 3 November.
 - h. Since the club removed the right for the applicants to trade under the existing premises licence, the applicants have utilised 12 TENs in order to hold events at the premises, including seven with DJs playing at the premises. All of these have occurred following the two events in October 2018. Checks undertaken outside the premises to ensure that music levels do not disturb residents have been undertaken at each event, and the logs demonstrate that the music cannot be heard outside the curtilage of the premises. In addition, dispersal of these events has been monitored and the new practices relating to allowing customers to wait for taxis to pick them up at the building has been implemented.
 - i. Clarification that the application was to request an opening time of 6am Monday to Saturday and not 5am as stated on the application form. The opening time of 10am on Sunday was not affected.

- j. The proposed conditions were appended to the bundle and, subject to the following, had been agreed with Mr Spearpoint (Environmental Health).
 - k. The applicants feel that the proprietary noise limiter condition proposed by Mr. Spearpoint is disproportionately strict and would require significant works and capital expenditure to comply with. Mr Warne stated that in the absence of a proven and evidenced history of consistent noise outbreak from music at this premises, it is neither appropriate nor proportionate to impose such a condition.
 - l. The applicant proposed a less onerous condition to install and maintain a noise limiter or regulator, which will be controlled from behind the bar. Music levels are to be agreed with the Environmental Health officers at the Council.
- 18.** Mr Warne apologised on behalf of the applicant for the disturbance caused by attendees leaving the two events held on 13 and 20 October and set out the post-event dispersal policy which the applicant had put in place to seek to prevent any further disturbances. Mr Warne stated at the hearing that the Applicant agreed to a condition that there would be a dispersal policy in place, but that he would not like the actual policy document to be the condition as this allowed for updating and amendment in the future.
- 19.** He stated that the applicants take any complaints very seriously and had sought to work with residents when they had been made aware of issues. Other than the two events in October 2018 referred to, there had been no other complaints from local residents since then, or in the past three years, as a result of functions held at The Thames Club. The applicant was happy to make contact details available to residents if they felt that would be of benefit to them. The applicant also offered to provide a number for the phone installed behind the Bar. Mr Williams added that they would be happy to meet with residents if they had any concerns.
- 20.** Mr Warne confirmed that there were no off-sales at the premises and that this is withdrawn from the application. In order to address the concerns of residents voiced at the hearing, the applicant also offered to have a condition on the licence stating that the front balcony would not be open to the public during licensable activities.

Representations

- 21.** Written representations were received from a Responsible Authority (Environmental Health) and five interested parties raising the following objections to the application under the licensing objectives:

Prevention of crime and disorder

- Anti-social behaviour, including shouting & singing

- Public urination in residents' gardens
- Alleged serving of 'drinks' long past their closing time.
- Drug Taking

Prevention of public nuisance

- Concern over the additional noise & disturbance from people leaving late at night.
- Rowdiness in the car park
- Loud music during functions
- Patrons leaving the club are often rowdy & noisy as they go into Wheatsheaf Lane and awaken residents.
- Patrons making a noise whilst waiting for transport
- Increased traffic
- Increased litter, including broken glass

22. Leslie Spearpoint made oral representations at the hearing. He stated that Environmental Health considers due to the complaints received from the residents, recorded by the Council, the following condition is required in order to promote the licensing objective of prevention of nuisance. He believed there was clearly nuisance to the residents linked to the music at the premises, and to persons leaving the premises.

“Noise levels resulting from regulated entertainment within the premises will be monitored and controlled using a proprietary noise limiter installed in the area where regulated entertainment is to take place. The noise limiter shall be linked to all electrical sockets used to power amplification equipment used for the purposes of the regulated entertainment and shall be capable of switching off the power to those sockets in the event that the agreed noise limit is exceeded.

Reference levels for the noise monitoring equipment will be established and agreed by an Environmental Health Officer or other nominated representative of Spelthorne Borough Council. Once the agreed limit has been established, the noise limiter shall be locked and sealed the settings shall not be altered without the consent of a representative of Spelthorne Borough Council.”

23. The following residents who had submitted written representations made oral representations at the hearing:
 Muriel O'Donnell
 Jill McKenzie
 Steve Waterfield
 Peter Skinner
24. The residents' main concern centred on the disturbance they had experienced from people leaving the premises late at night. They particularly

referred to the events on 13 and 20 October 2018 and described the anti-social behaviour they had encountered following these events. They described incidents of at least 25 people sitting on walls outside the premises, a truck driving in and out of the premises, people being drunk in the roadway, a person urinating behind a caravan in a resident's drive and a person entering the back garden in one of the premises.

25. Residents states that they had contacted the local authority in relation to the events in October. They confirmed that they had cause to contact the police in the past.
26. The residents confirmed that there had been no problems as a result of licensable activities taking place under TENS since the event on 20 October 2018.

Findings

27. The Sub-Committee has considered the representations made by the applicant, responsible authority and the interested parties both in writing and at the hearing and finds as follows:
28. That the representations made by the interested parties centred around anti-social behaviour and noise disturbance from people leaving the premises as a result of two recent events and that the premises had been operating without incident for some time prior to this and since.
29. The Sub-Committee noted National Guidance which states that behaviour of customers beyond the immediate area surrounding the premises is a matter for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right.
30. That there is no evidence that there is an outbreak of music from licensable activities at the premises which is disturbing the residents. Therefore, it is not proportionate and appropriate to impose a condition on the installation of a noise limiter such as that requested by Environmental Health. The Sub-Committee agrees to the condition on installation of a noise regulator as proposed by the applicant.
31. The Sub-Committee was persuaded by the representations of the applicant that it is trying to work with the residents to ensure that the premises do not cause a nuisance to their neighbours. It is satisfied that the proposed conditions and dispersal policy will ensure the promotion of the licensing objectives.
32. Although the applicant has put forward a number of measures to improve relationships with residents, the Sub-Committee would encourage them to

demonstrate their commitment by being more pro-active in their efforts and approaching the residents rather than waiting for them to complain.

33. The Sub-Committee was encouraged by the condition put forward for the 8 late events that residents would be given 25 days advance notice. Although the Sub-Committee appreciates that this condition is not feasible for Temporary Event Notices it would encourage the applicant to give whatever notice they are able to, for such events.

Decision

34. The Sub-Committee confirms that the application for a Premises Licence is granted subject to the conditions agreed in advance of the hearing, at the hearing and proposed in the applicant's bundle. For clarity, the hours and conditions agreed are detailed below:

- a. Regulated entertainment and supply of alcohol**
 - Monday-Thursday and Sundays 10am to 10.30pm
 - Friday and Saturday 10am to 11pm
- b. Films**
 - Monday to Sunday 10am to 10.30pm
- c. Late night refreshment**
 - Friday and Saturday 11pm to 11.30pm
- d. Opening hours**
 - Monday to Thursday 6am to 11pm
 - Friday and Saturday 6am to 11.30pm
 - Sunday 10am to 11pm

Non-standard timings

Regulated Entertainment events and the sale and supply of alcohol can take place on 8 occasions per year until midnight. The dates of such events must be notified to the Licensing Manager and the Environmental Health officer and local residents, 28 days in advance of the event taking place. Live and recorded music will cease at 11.30pm during the events permitted under this condition with the exception of New Year's Eve, where it will be permitted as set out in the nonstandard hours of this licence.

On the day at the start of British Summer Time, the terminable hour is to be extended by one hour.

Conditions agreed prior to hearing with Police and Environmental Health:

- 1) Whilst more than one premises licence is in effect at the premises a register will be held on the premises detailing a list of events that are held and outlining which premises licence is being used for each event. This is for clarity under the Licensing Act 2003 and so that that a single point of responsibility can clearly be identified.

- 2) Whilst more than one premises licence is in effect at the premises for the duration of each event, a notice will be displayed on the premises which is clearly visible to the public detailing which premises licence is authorising the event being held.
- 3) A risk assessment ('the Assessment') will be undertaken in relation to any functions at the premises where 60 or more persons are expected to attend. The Assessment will determine whether SIA registered door supervisors are deemed appropriate to promote the licensing objectives. SIA door supervisors will be employed in the numbers and for the times identified as appropriate in the Assessment. At all other times SIA door supervisors will be employed at the discretion of the Manager/ DPS. The risk assessment will be recorded in writing, and to be made available upon request by the Licensing Authority and Responsible Authority.
- 4) A pre-order service for taxis is provided to prevent customers loitering outside the club causing any nuisance to local residents.
- 5) Customers who are waiting for a taxi, shall be encouraged to wait inside the premises until the taxi arrives.
- 6) No open containers, containing alcoholic drinks, shall be permitted to be taken from the premises.
- 7) An incident and complaints book ('the book') shall at all times be held at the premises and must detail all incidents that have taken place at the premises relating to licensable activities being provided, whether they involve the police or not. The book must contain details of action taken in relation to complaints received from the public about licensable activities or during the provision of licensable activities at the premises and in the immediate vicinity, relating to the club. The book shall be available for inspection by the Licensing Authority, all responsible authorities at all reasonable times in line with data protection law.
- 8) The management will carry out a risk assessment of the premises every 12 months in relation to the provision of licensable activities.
- 9) Staff will check prior to the commencement of entertainment (being live and/or recorded music) and periodically during such entertainment that all windows and doors are closed at all times in the room providing regulated entertainment or any adjoining space it opens on to, except for access and egress.

- 10) No noise from music, television or other means of amplification (with the exception of announcements during sporting events at the stadium) will be audible at the boundary of the nearest residents' property.
- 11) The Designated Premises Supervisor (or any reasonable substitute) will, whenever there is recorded or live music at the premises, carry out regular checks on the volume levels at the boundaries of the premises, to ensure that it will not cause a nuisance to the neighbours. If the level of the recorded or live music is such that it is deemed likely to be causing a public nuisance to take the appropriate action by requiring the sound level to be reduced. The level of music is to meet with the following:
 - (a) From opening until 23:00 hrs. - To prevent entertainment being intrusive, noise emanating from the premises will not be clearly distinguishable above other noise in at the boundary of the nearest residential property. (You should not be able to identify the tune above normal background noise, although you may still be able to hear something).
 - (b) Between 23:00 hrs and the event finishing. - Noise emanating from the regulated entertainment should not be audible outside the premises.
- 12) Notices to be placed in prominent places both externally and internally at the premises to ask customers to leave the premises quietly.
- 13) The licence holder is to ensure consultation and dialogue with residents, as required, to address their concerns in respect of the activities taking place at the premises.
- 14) The licence holder will make a mobile telephone number for the Duty Manager and a telephone number for the Bar, available to residents when a function is taking place. The telephone numbers are to be made available to residents upon request.

Conditions agreed at the hearing:

- 15) The premises licence holder will install and maintain a noise limiter or regulator at the premises, which will be controlled from behind the bar. Music levels are to be agreed with the Environmental Health officers at the Council.
- 16) The front balcony will not be open to the public whilst licensable activities are taking place at the Premises

- 17) A Dispersal Policy will be in place at the Premises and shall be in operation to ensure effective dispersal of persons at the end of an event where there is regulated entertainment.
35. The Sub-Committee would like to remind interested parties that if they have concerns about the running of the premises then these ought to be brought promptly to the attention of the designated premises supervisor, (currently Mr Peter Williams) and the responsible authorities (Police and Environmental Health), since otherwise it is impossible for residents' concerns to be properly considered and dealt with.
36. If residents feel their concerns are not being addressed and they continue to experience disturbance as a result of the licensable activities taking place at these premises, the Sub-Committee would expect them to use the Review process.

Conclusion

37. That is the decision of the Sub-Committee. A copy of this decision has been provided to all parties to the hearing within 5 days of the Sub-Committee meeting.
38. You have the right to appeal against this decision to the Magistrates' Court within 21 days of receipt of this decision notice.
39. If you decide to appeal, you will need to submit your appeal to Guildford Magistrates Court. You should allow sufficient time for your payment of the relevant appeal fee to be processed. For queries, Guildford Magistrates Court can be contacted on 01483 405 300.

Cllr Robin Sider - Chairman
Cllr Maureen Attewell
Cllr Richard Barratt

Date of Decision: 14 January 2019
Date of Issue: 18 January 2019