

## **REPORT TO: LICENSING SUB COMMITTEE**

**Date of Hearing:** 20 December 2023

**Report of:** The Service Lead - Environmental Health and Licensing Manager

**Type of Application:** Licensing Act 2003 application for the VARIATION of a premises licence

**Premises:** Sandy Park Stadium, Sandy Park Way, Exeter EX2 7NN

**Legislation:** Licensing Act 2003 ('the Act')

**Ward of Premises:** Topsham

**Applicant:** Exeter Rugby Club Ltd

### **1. What is the report about?**

1.1 The application attached as Appendix A has been received for the VARIATION of a premises licence. The variation submitted applies to events only.

1.2 The existing licence is attached at Appendix B.

#### **1.3 The proposed variation:**

The Applicant seeks to apply for a variation to permit:

1. A finish time on Sunday at an outdoor live music event of 22.30hrs varying from the current 21.30hrs.
2. To allow up to 6 music events, between 1<sup>st</sup> May and 15<sup>th</sup> July each year, avoiding local school holidays. This is a reduction in the number of permitted events and time period in which they can occur, from the current licence.

1.4 The Applicant is seeking to add the additional conditions as set out in the Operating Schedule at part M of the Application.

1.5 The Applicant has provided a copy of the Event Management Plan in respect of events carried out in 2023 in support of the application. A copy is attached at Appendix C.

### **2. Are there any representations?**

2.1 There has been one representation from a local resident objecting to the variation relating to the Licensing Objectives, the Prevention of Public Nuisance, the Prevention of Crime and Disorder, Public Safety. There were no other representations from any of the other Responsible Authorities. The representation is attached at Appendix D.

### **3. Report details:**

- 3.1 The application was advertised on the Premises from 8<sup>th</sup> November 2023 for 28 days in line with above legislation. The advertisement is at Appendix E.
- 3.2 The application was advertised in the local newspaper on 23<sup>rd</sup> November 2023. The Licensing Act 2003 (Premises licenses and club premises certificates) Regulations 2005 ('the Regulations') require the advertisement to be published within 10 Working Days of receiving the application. The application was accepted on the 7<sup>th</sup> November 2023 and the advertisement published on 23<sup>rd</sup> of November which is 12 Working Days.
- 3.3 The Licensing Sub-Committee must consider as a preliminary issue the Applicant's failure to advertise in the local newspaper within the statutory 10 Working Days. The parties will be invited to make submissions on this point before the full hearing can proceed.

### **4. What are the legal aspects?**

- 4.1 The Licensing Sub-Committee must ensure that the proceedings are conducted in an open and transparent manner and must determine the procedural matter raised in paragraphs 3.2 and 3.3 before considering the full application. A copy of regulation 25 and 26 of the Regulations is attached at Appendix F.
- 4.2 There must be substantial compliance with the Regulations. Minor errors or irregularities compared to a total failure to comply with the Regulations should not be fatal to the application. The key issue to determine is whether any party is able to demonstrate that substantial injustice or prejudice has been caused as a result of the failure to comply with the Regulations.
- 4.3 In the event the Licensing Sub-Committee proceed to determine the application it is required to have regard to;
  - 4.3.1 the steps that are appropriate to promote the Licensing Objectives;
    - Protection of children from harm
    - Prevention of public nuisance
    - Public safety
    - Prevention of crime and disorder
  - 4.3.2 the representations (including supporting information) presented by all the parties; and
  - 4.3.3 the Official Guidance issued under section 182 of the Licensing Act 2003 revised December 2022 which can be viewed at: [Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/102442/Revised_guidance_issued_under_section_182_of_Licensing_Act_2003_-_GOV.UK_(www.gov.uk).pdf) and
  - 4.3.4 the Licensing Authorities Statement of Licensing Policy which can be viewed at <https://exeter.gov.uk/media/1427/statement-of-licensing-policy-2015-2020.pdf>
- 4.4 In determining a licence application the Licensing Sub-Committee will consider each application on its merits.

4.5 The Licensing Sub-Committee, having regard to the representations, must take such of the following steps, if any, as it considers appropriate for the promotion of the Licensing Objectives.

- to modify the conditions of the licence; and/or
- to reject the whole or part of the application.

If the Licensing Sub-Committee considers that none of the above steps are appropriate for the promotion of the Licensing Objectives the Application shall be granted as applied for.

## **5. Recommendations:**

5.1 The Licensing Sub-Committee are required to identify what steps, if any, need to be taken to determine the application.

### **Service Lead – Environmental Health & Community Safety**

Author: Nigel J Marston, Principal Licensing Officer

## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

None

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