

BABERGH DISTRICT COUNCIL

**FROM: HEAD OF NATURAL AND BUILT
ENVIRONMENT DIVISION**

REPORT NUMBER

K181

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING

3 February 2011

LICENSING ACT 2003 - HEARING REPORT

1. SUMMARY

- 1.1 To determine an application made under the provisions of the Licensing Act 2003 by:

Stanstead Village Community Centre (Club)

in respect of:

**Stanstead Village Community Centre
The Hill, Stanstead, SUDBURY, Suffolk CO10 9AP**

- 1.2 The hearing is necessary to determine an application to vary an existing Club Premises Certificate (for the benefit of club members and guests only) made under section 84 of the Licensing Act 2003. A copy of the application and summary of the existing entitlements are attached as **Appendix 1**. For the avoidance of any doubt this type of licence authorisation does not permit licensable activities for the public generally.

In general terms the variation is seeking to extend alcohol activity to allow for lunchtime activity (no extension to terminal hour proposed), also to extend the frequency of live music to a Thursday and Sunday plus extend recorded music entitlement to commence at midday rather than 20:00hrs.

2. RECOMMENDATIONS

- 2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- To modify the conditions of the certificate (and for this purpose the conditions of the certificate are modified if any of them are altered, omitted or any new condition is added);
- To reject the whole or part of the application.

The sub-committee is able to determine this application.

3. THIS APPLICATION

3.1 The applicant is Stanstead Village Community Centre (Club), and the person performing duties as secretary to the club is Mrs Michelle Risby. The main contact from the Club in respect of this application has been Mrs Diane Dodd who is the Club Treasurer. The community centre is single storey and contains a bar, two main rooms (function hall with stage/games area plus lounge), kitchen, toilets, cellar, car parking and a patio/garden area which is identified on the existing plan as being used for the consumption of alcohol.

Appendix 1 attached contains all application documentation including the existing plan of the community centre and club rules.

3.2 No Designated Premises Supervisor (DPS) or personal licence holders are required in respect of Club Premises Certificates. The Club Committee as a body is responsible for arrangements relating to the sale and supply of alcohol to members and guests.

3.3 The purpose of the variation as referred to in the application is to facilitate licensable activities during the lunch time period.

3.4 The statutory advertisements required under the Act have been published and on display. The newspaper advertisement appeared in the Mercury publication, and the following consultees, as Responsible Authorities under the 2003 Act, have been served with a copy of the application and plans:

RESPONSIBLE AUTHORITY:	RESPONSE:
1. Chief Officer of Police	No representations or objection.
2. Local Fire Authority	No representations or objection.
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	No representations or objection.
4. Environmental Health	REPRESENTATION 24.12.2010
5. Local Planning Authority	Confirmed no objection.
6. Area Child Protection Committee	As Police response. No objection.
7. Any other Licensing Authority	Not applicable.
8. Trading Standards	No representations or comments.

3.5 Representations have been received during the statutory period from 'interested parties' as defined by the 2003 Act. These are attached as **Appendix 2** and are submitted by the following persons:

- o Mr Keith McCarthy, Havenleigh, The Hill, Stanstead, SUDBURY CO10 9AP

3.6 Mediation in this instance has not proved viable. The Principal Environmental Protection Officer has made efforts to gain a better understanding of the frequency, nature and controls of music events to be held at the Club but has had no feedback from the organisers on his enquiries.

4. GUIDANCE AND POLICY CONSIDERATIONS

- 4.1 The sub-committee is referred generally to section 2 – ‘The Licensing Objectives’, section 6 - ‘Club Premises Certificates’, section 9 - ‘Determining Applications’ and section 10 - ‘Conditions Attached to Premises Licences and Club Premises Certificates’ of the Central Government Guidance (as revised October 2010) in respect of this application.
- 4.2 The Government Guidance issued under section 182 of the Licensing Act 2003 advises that duplication with other statutory provisions is to be avoided (sections 1.16 and 10.15-10.18 refer) and that any conditions deemed necessary to attach to a licence/certificate must be proportionate and focus on relevant measures that are within the direct control of the club/ licence holder.
- 4.3 Licensing law is not the primary mechanism for the general control of individuals once they are away from the licensed premises and beyond the direct control of licence/certificate holders (section 1.26 refers). Any conditions imposed must be within the control of the licensee/Club (section 1.27).
- 4.4 The sub-committee should have due regard to all relevant sections of the Council’s Statement of Licensing Policy in respect of the determination of this application.
- 4.5 The sub-committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 for the applicant and Articles 8 and 1 of Protocol 1 for those raising representations - when determining applications for the grant of a new licence.

5. EQUALITY AND DIVERSITY IMPACT

- 5.1 There are no Equality and Diversity implications arising from this matter.

6. THE ISSUE(S)

- 6.1 The Licensing Act 2003 has now been in full effect for over 5 years. The four underlying objectives of the legislation are:
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm

These are the **only** grounds upon which an application may be refused, or if deemed necessary, conditions may be attached to a licence/certificate.

- 6.2 Members will note that the issues in respect of this application involve:
- Balancing the interests of operators, employees, customers and neighbours of licensable premises.

7. PROCEDURE TO BE FOLLOWED AT HEARING

7.1 A copy of the 'Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received' is attached to the Agenda.

8. APPENDICES REFERRED TO

- (a) Appendix 1: Application together with club premises plans and club rules
- (b) Appendix 2: Representations
- (c) Appendix 3: Site plan showing approximate locations of interested party objector

CONTACT: Lee Carvell
Principal Licensing Officer

EMAIL: lee.carvell@babergh.gov.uk

**LICENSING ACT 2003: APPLICATION 006181
CLUB PREMISES: STANSTEAD VILLAGE COMMUNITY CENTRE**

ENVIRONMENTAL PROTECTION REPRESENTATION

From: Buckingham, James
Sent: 24 December 2010 12:13
To: Licensing Team
Subject: RE: Club variation application LA03/006181 - Stanstead Village Community Centre (Club)

Details of representation:

I spoke to Michelle Risby the Club Secretary yesterday (I have not been able to contact Diane Dodd). I advised that:

- I have been consulted on the application in relation to any Public Nuisance concerns.
- I had until 7th January to submit any representation I may wish to make, but that because the Council closes from 24/12/10 to 4/01/11, this meant I would have to submit my comments before the end of the 24/12/10.
- That if I made a representation, and mediation was not successful, then the application would have to go to the Licensing Sub-Committee for determination.
- I have no objection, in principle, to incidental, background-type music being played at the extended hours applied for.
- However, if granted, the application would effectively allow live bands or disco-type "events" to be held four days of every week of the year, which I had serious concerns about.

We agreed that Ms Risby would speak to her sister with a view to establishing the maximum number of live band or disco-type events they would want to hold per year and that Ms Dodd would call me this morning to discuss. Ms Dodd has not called me and I have tried to call her twice, without success. I am therefore left with no alternative but to submit a formal objection to the application.

The premises is just 15m from the façade of the nearest residential property and only 3m from the garden of that property. There are numerous residential properties surrounding the premises. There is therefore significant potential for Public Nuisance from noise - from music and from people and vehicles arriving/departing the venue.

As stated, I would not object to the playing of recorded incidental, background-type music being played in the premises at the extended hours applied for. There may also be some scope to allow the playing of louder music for disco-type events and the performance of live music for events/band practice, if the overall number of such "events" could be agreed and appropriate controls put in place, for example (but not exclusive):

- All doors and windows to be kept closed during such events.
- All external doors to be fitted with hydraulic self-closing devices.
- The possible installation of a noise limiter device.

However, if the Applicant is not willing to negotiate on the number and timings of "events" then I would advise that the risk of Public Nuisance remains substantial and the application should be refused.

I note that planning permission was granted in 2006 for the "Erection of single-storey front and rear extensions with covered area to rear. Erection of pitched roof over existing flat roof". I believe the permission was subject to the following conditions being met:

1. No development shall commence before detail of the window acoustic specification has been submitted to and agreed in writing by the local planning authority. The approved specifications shall be fully installed before the building is first occupied and thereafter retained in the approved form.

2. Before the hereby permitted development is commenced a scheme for the mitigation of noise from musical entertainment events has been submitted to and agreed by the local planning authority, to include the detail of design of the external and internal double doors. Work shall not commence until the measures proposed have been approved by the Local Planning Authority the mitigation strategy shall be fully implemented on site.

I have not been able to confirm whether the development was ever completed, but I understand that these conditions have never been formally discharged. I would strongly advise that the Applicant should discharge their responsibilities under these conditions before this licensing application is determined.

James Buckingham
Principal Environmental Protection Officer
Babergh District Council

INTERESTED PARTY REPRESENTATION

From: KEITH MCCARTHY

Sent: 05 January 2011 11:56

To: NaBE - Licensing

Subject: Stanstead Village Community Centre Licence request

Dear Sir/Madam

I am writing to oppose the request to amend the licensing application for Stanstead Village Community Centre, Lower Street , Stanstead , Sudbury, Suffolk CO10 9AP.

I understand that a request has been made to open earlier and serve alcohol from midday. The reason for the objection is because there have already been issues with Anti-social behaviour starting from early evening and going into the early hours on the morning.

Formal complaints have been made by several households around the Community Centre to the club itself, Babergh licensing department and the Police. The Police have been called out and attended on several occasions and have also conducted an Anti-Social behaviour leaflet drop to the surrounding properties near the Community Centre.

The Anti-social behaviour consists of loud rowdy behaviour as well as foul language all evening, this has had a devastating effect on the surrounding homes and we all fear that if the community centre Club is allowed to serve alcohol from midday this will affect all our home life's even further, making our gardens a no go area because of the issues already mentioned above

Yours

Mr Keith McCarthy

"Havenleigh" The Hill , Stanstead