

Version
Number:

Key Decision Y/N

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Licensing Act Sub Committee

Date of Meeting: 30th July 2021

Report Title: Application for a Premises Licence at Hilltop Country House,
Flash Lane, Macclesfield, Cheshire, SK10 4ED

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

- 1.1. The report provides details of an application for a Premises Licence, under section 17 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the new grant application.

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by Hilltop Country House Events Limited, in respect of:

Hilltop Country House,
Flash Lane,
Macclesfield,
Cheshire East,
SK10 4ED

- 2.2. The Licensing Act Sub-Committee is requested to consider the application and any relevant representations and determine what steps, if any, it considers are appropriate to promote the Licensing Objectives.
- 2.3. Acting in the capacity of the Licensing Authority, Members must seek to promote the Licensing Objectives and where Members consider that

matters have engaged one or more of the Objectives, they may exercise their discretion. The 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

2.4. Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so. Careful consideration should be given to the application and the evidence presented by the parties in relation to the review.

2.5. Finally, Members are also reminded that in determining the application, consideration also needs to be given to:

- a) The rules of natural justice;
- b) The provisions of the Human Rights Act 1998.

3. Reasons for Recommendations

3.1. The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003 and the Council's Constitution.

4. Other Options Considered

4.1. Not applicable.

5. Background

5.1. On 8th June 2021 an application was received by the Licensing Department for the grant of a Premises Licence in respect of Hilltop Country House. The application was sent for consultation on 9th June 2021. The last date for representations to be made was 6th July 2021. A copy of the full application is attached to this report at **Appendix 1**.

5.2. A map of the area in which the premises is located is attached to this report at **Appendix 4**.

5.3. The operating schedule indicates that the relevant licensable activities applied for are:

- Supply of alcohol
- Provision of Live Music
- Provision of Recorded Music
- Late Night Refreshment

5.4. The hours applied for are as follows:

- Supply of alcohol (for consumption on the premises)
Monday to Sunday – 12:00 to 24:00
- Provision of Live Music (Indoors & outdoors)
Wednesday to Sunday – 12:00 to 24:00
- Provision of Recorded Music (Indoors)
Monday to Sunday – 12:00 to 24:00
- Late Night Refreshment (Indoors & Outdoors)
Monday to Sunday – 19:00 to 22:00

5.5. Responsible Authorities:

5.5.1. The Licensing Authority has not received representations from any of the responsible authorities, save for Cheshire Constabulary. On 2nd July 2021 the Licensing Authority received an email from Cheshire Constabulary confirming they entered into dialogue with the applicant during the consultation period, and that their proposed conditions had been expressly agreed by the applicant. The proposed conditions, and the applicant's agreement, are set out in **Appendix 2**.

5.6. Other Persons:

5.6.1. The Council has received representations against the application, from thirty-five members of the public. Copies of the objections are attached to this report at **Appendix 3**.

5.6.2. It is noted that two further objections had been received, however they were subsequently withdrawn following dialogue with the applicant.

5.7. Public Notice:

5.7.1. One of the requirements under The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, is that the applicant do publish a notice of the application:

(i) in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises;

(ii) on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.

5.7.2. It is noted and acknowledged that the notice of the application published in a local newspaper was done so outside of the 10-working day period referred to under the above regulations. The notice of the application was in fact published in a local newspaper on the 11th working day.

However, the case of **R (on the application of Akin) v Stratford Magistrates Court [2014] EWHC 4633 (Admin)** dealt with the validity of notices and confirms that substantial compliance with the relevant regulations (38 and 39 taken as a whole) is sufficient for the process to be deemed valid. This follows and reiterates previous case law concerning procedural defects. The information provided by Officers in relation to the notices supports that substantial compliance, insofar as Hilltop Country House Events Limited's actions allowed, has been achieved.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. In accordance with the provisions of section 18 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. Section 18(4) provides that the authority may:

- a) Grant the licence subject to conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives and any mandatory conditions that must be included on the licence in accordance with the Licensing Act 2003;

- b) Exclude from the scope of the licence any of the Licensable Activities to which the application relates;
- c) Refuse to specify a person in the licence as the Premises Supervisor;
- d) Reject the application.

6.1.2. Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

6.1.3. Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to through all of its various functions, and Licensing is one of those functions to do all that it can to prevent Crime and disorder, Anti-social Behaviour, behaviour adversely affecting the environment and re-offending.

6.2. Finance Implications

6.2.1. There are no financial implications.

6.3. Policy Implications

6.3.1. The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

6.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

6.3.3. Members should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.

6.4. Equality Implications

6.4.1. There are no direct equality implications.

6.5. Human Resources Implications

6.5.1. There are no human resources implications.

6.6. Risk Management Implications

6.6.1. The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant person' who has

submitted their representation and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 makes provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.10.1 There are no direct implications for public health.

6.10. Climate Change Implications

6.10.1. There are no direct implications for Climate Change.

7. Ward Members Affected

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|-------------------|---------------------------|
| 7.1. Prestbury – | Councillor Paul Findlow |
| 7.2. Bollington – | Councillor James Nicholas |
| 7.3. Bollington - | Councillor Amanda Stott |

8. Consultation & Engagement

8.1. Consultation in respect of submitting an application for a Premises Licence application is prescribed in the Licensing Act 2003 and has been fully complied with.

9. Access to Information

9.1. The background papers relating to this report can be made available by contacting the report writer.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Martin Kilduff
Job Title: Licensing Enforcement Officer
Email: martin.kilduff@cheshireeast.gov.uk

- Appendix 1 – Application & plan of premises
- Appendix 2 – Police Representations & proposed conditions
- Appendix 3 – Representations from members of the public
- Appendix 4 - Map of area