

Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford Area Licensing Panel to be held on 3 January 2018.

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Subject:

Application for a Review of a Premises Licence for Oakwood Hall Hotel, Lady Lane, Bingley, BD16 4AW.

Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

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Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The application is for the review of a Premises Licence authorising the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

2. BACKGROUND

2.1 The Premises

Oakwood Hall Hotel, Lady Lane, Bingley, BD16 4AW.

2.2 Premises Licence holder

Wistnoon Ltd.

2.3 Designated Premises Supervisor

Mr Simon Paul Brassington.

A copy of the Licence is attached at Appendix 1.

2.4 Application Received asking for a Review of the Licence

Individual, Body or Business

The applicant's garden is situated on the other side of the hedge which surrounds Oakwood Hall's gardens. The applicant states that the hedge does not provide any barrier to noise and the hotel's guests are probably unaware of the houses behind it. The applicant states that the noise level is awful, with guests shouting, screaming and occasionally swearing and alleges that the noise level is never monitored by staff. Also, the applicant and her family are unable to enjoy their garden any more at the weekend due to the disturbance. The applicant also mentions that the involvement of the Environmental Health Officer has not made any difference at all.

The applicant has suggested that guests should go inside by 7.00 pm and smokers should only be allowed in the garden without a drink, so as not to linger. The applicant also suggests that the hedge is cut down, so that guests are aware of residents living close by.

The application for review is attached at Appendix 2.



2.5 Representations

Responsible Authorities

Environmental Health –

A representation has been received from the Environmental Health Officer who has received seasonal complaints from local residents regarding the premises since 2015.

The officer mentions that the issue is the general noise from wedding parties held at the premises and particularly within the premises grounds on an almost weekly basis throughout the summer months, so that the complainants are unable to enjoy the use of their gardens and properties for prolonged periods at weekends. The use of the garden at Oakwood Hall has been identified as the key source of the problem. The officer advises that the hedge which separates resident's gardens from that of Oakwood Hall, offers negligible acoustic attenuation.

The officer also advises that a resident has audio files demonstrating a typical wedding party, with general noise from guests which, in the officer's opinion, was intrusive and disturbing and would become intolerable after a prolonged period of time.

The officer has suggested that the most practical way of addressing the matter is by limiting the permitted use of the garden area, along the lines proposed by the applicant/complainant.

The representation from Environmental Health is attached at Appendix 3.

Individual, Body or Business

A letter of representation has been received from a local resident regarding noise from guests using the outdoor area and noise from the generators of bouncy castles which are placed in the garden. The noise nuisance can start at lunchtime and continue into the night. The resident no longer feels that she can enjoy her garden and also has concerns about the height of the hedge.

The letter of representation is attached at Appendix 4.

A letter of representation in support of the premises has been received from local residents.

The letter of representation in support is attached at Appendix 5.



3. OTHER CONSIDERATIONS

Legal Appraisal

3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

3.2 The Council must also have regard to the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003. Paragraphs 11.1 to 11.30 of the Guidance specifically details how applications for review of licences should be determined. Regard must also be taken of the Council's statement of Licensing Policy for the District.

An extract of the Home Office Guidance is attached to this report at Appendix 6.

3.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.

3.4 Only "relevant representations" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.

3.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

Statement of Policy Issues

3.6 The following parts of the Licensing Policy are of particular importance; Part 6 (Prevention of Public Nuisance).

3.7 The Annexes to the Policy sets out various types of model condition that could be considered.

4. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.



5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management implications.

6. LEGAL APPRAISAL

Referred to in part 3 of this report.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

7.2 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.4 COMMUNITY SAFETY IMPLICATIONS

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

7.5 HUMAN RIGHTS ACT

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

7.6 TRADE UNION

Not applicable.



7.7 WARD IMPLICATIONS

Ward Councillors have been notified of receipt of the application.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

9.1 Members may:

- (a) Refuse the application for review of the licence; or
- (b) Decide not to impose any further restrictions on the licence; or
- (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives;
or
- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the Licence.

9.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

11. APPENDICES

1. Premises Licence
2. Application for review received 29 August 2017.
3. Representation from Environmental Health
4. Letter of representation.
5. Letter of representation in support.
6. Extract from the Government Guidance.

12. BACKGROUND DOCUMENTS

Application form, plan etc.

