

REPORT TO: LICENSING SUB-COMMITTEE

DATE: 16 MAY 2022

TITLE: APPLICATION FOR A PREMISES LICENCE:
KATHERINES COMMON ROOM, KATHERINES
HATCH, HARLOW, ESSEX, CM19 5NP

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RECOMMENDED that:

- A** Members of the Licensing Sub-Committee consider an application made by Friends of Rock School for a Premises Licence to be granted under the Licensing Act 2003 in respect of the premises known as Katherines Common Room, Katherines Hatch, Harlow, Essex, CM19 5NP. This application has received representations from local residents during the consultation period and therefore referred to the Sub-Committee for determination.

BACKGROUND

1. Acting in the capacity of the Licensing Authority, Members must seek to promote the Licensing Objectives. 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. Katherines Common Room is situated on the end of a terrace of three shops. It is a single storey brick building and adjoins onto King's Clippers, Katherines Charcoal Grill Fish & Chips and Katherines Local Supermarket. On the other side it neighbours Katherines Primary Academy. The Common Room has a

small garden to the rear which backs onto the three storey Katherines House retirement housing estate.

3. Katherines Hatch is served by a lay-by fronting the road with a bus stop. Parking bays are available to the side of the shops next to the Peacocks residential area. Location maps and photo of premises are available in Appendix F.
4. Friends of Rock School have been operating from the above premises since April 2019, they lease the building from Harlow Council. Before opening, the lease was conditional on the Rock School sourcing an independent inspection for any potential noise risk from the premises.
5. Officers from the Licensing Team visited the premises on Friday 22 April and were shown around the premises. During the visit, officers were shown the soundproof glass installed at the front window and rear windows/patio doors of the building. An additional layer of soundproof glass has also been installed in the main function room under the narrow strip of its apex glass roof. Sound absorbent acoustic panels are installed around the walls in the main function room.
6. The premises have a small enclosed garden area to the rear with two picnic benches which were in use at the time of visit.
7. Friends of Rock School are a charity and are a youth music project where young people are taught music skills by volunteers, currently on Monday and Friday evenings, some extra classes are also arranged in school holidays. On Friday mornings Musicbox is run in conjunction with Mind for adults. The applicant does not require a premises licence for these activities. A licence is only required, where music is provided to entertain an audience.
8. The applicant stated that the application for a premises licence would enable them to fund raise by holding ticket events and would like to provide the sale of alcohol for consumption on the premises to those attending.
9. Environmental Health has not received any noise complaints concerning the Friends of Rock School over the last three years.

Application

10. A valid application for a new Premises Licence was made on 21 March 2022 for the following licensable activities, days and timings:

Sale or Supply of Alcohol (On-Sales)	
Monday to Wednesday	10:00 - 22:00
Thursday to Saturday	10:00 - 23:00
Sunday	10:00 - 22:00
Live Music (Indoors)	
Monday to Wednesday	10:00 - 22:00
Thursday	10:00 - 23:00
Friday and Saturday	10:00 - 23:30

Sunday	10:00 - 22:30
Recorded Music (Indoors)	
Monday to Wednesday	10:00 - 22:00
Thursday	10:00 - 23:00
Friday and Saturday	10:00 - 23:30
Sunday	10:00 - 22:30
Non-Standard Timings for 31 December	
Live Music	10.00 - 01.00
Recorded Music	10.00 - 01.00
Sale of Alcohol	10.00 - 00.30
Opening Hours	10.0 - 01.00

11. Due to deregulatory changes in 2015 that amended the Licensing Act 2003. No licence is required for live music and recorded music where:

- a) There is a premises licence in place permitting 'on sales'
- b) The premises are open for the sale or supply of alcohol for consumption on the premises
- c) Live or recorded music is taking place between 8am and 11pm
- d) If the music is amplified live music or recorded music, the audience consists of no more than 500 people

12. In accordance with the Licensing Act 2003 regulations, public notices have been displayed and published. Responsible authorities were notified of the application. The consultation period ended on the 18 April 2022. Appendix B.

13. A copy of the application is attached as Appendix A.

ISSUES

Consultation

14. Essex Police, as a Responsible Authority have not made any representations. However, the Police have proposed extra conditions to the applicant and these have been agreed to be added to the premises licence. See Appendix C.

15. No representations have been received from any Responsible Authorities.

16. The Council has received 11 representations from members of the public. Nine were residents from Bynghams, one from Peacocks and one from Church End. The representations have been summarised (they are shown in full at Appendix D) and are predominately as shown under each of the relevant licensing objectives below:

- a) Prevention of Crime and Disorder

- i) Alcohol related anti-social behaviour, drunkenness and people loitering

b) Public Safety

- i) Late night disruption and disorderly behaviour
- ii) Increase in road traffic and parking
- iii) Crowds gathering outside Katherines Hatch affecting the safety of other users of the vicinity
- iv) More people in the residential area, affecting residents and in particular those of Katherines House
- v) Broken glass and vandalism from people already drinking at Katherines Hatch

c) Prevention of Public Nuisance

- i) Noise is already loud from the premises as doors open and shut
- ii) Late night noise from the playing of music causing disturbance, also people leaving, car doors slamming and engines revving, in a predominately residential area
- iii) More events more people more noise, littering and social problems

d) Prevention of Children from Harm

- i) Safety of children attending the primary school
- ii) Concerns of underage alcohol consumption
- iii) Concerns of exposing children to alcohol related bad behaviour

17. The applicant has informed us that some of the residents have approached them with their concerns about their application. A leaflet was made available on site to provide further information to support their application. See Appendix E.

18. The applicant and other persons making representations have been sent the statutory Notice of Hearing, inviting them to attend this hearing with or without representation.

PROPOSALS

Determine the application

19. That the Sub-Committee determine the application, members of the Sub-Committee have the following options available:
 - a) grant the application as applied for, subject to conditions consistent with the operating schedule
 - b) grant the application as applied for, subject to modifying conditions consistent with the operating schedule in a way it considers appropriate for the promotion of the licensing objectives
 - c) reduce the hours sought during which licensable activities may take place
 - d) reject one or more requested licensable activities
 - e) reject the whole application
20. All decisions of the licensing authority, and any conditions imposed, must be practical, enforceable and appropriate for the promotion of the licensing objectives.
21. The decision is to be made with regard to the Licensing Act 2003, the Secretary of State's Revised Guidance issued under Section 182 of the Licensing Act 2003, and the Council's Statement of Licensing Policy.
22. The Sub-Committee's attention is directed towards Chapter 9 'Determining applications' and Chapter 10 'Conditions attached to premises licences and club premises certificates' in the Section 182 Guidance:

Particular reference should be made to:

9.4 ...There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They

should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters...

In relation to imposing any conditions:

10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.

10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

In relation to regulated entertainment:

*16.36 Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:*

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;*
- if the music is amplified, it takes place before an audience of no more than 500 people; and*
- the music takes place between 08.00 and 23.00 on the same day.*

23. In addition to determining the application in accordance with the legislation, the Sub-Committee must have regard to the:

- common rules of natural justice

- provisions of the Human Rights Act 1998
 - considerations in Section 17 of the Crime and Disorder Act 1998
24. The Human Rights Act 1998, which requires authorities to take into account the rights of individuals to respect for their private and family life (Article 8), a right to a fair trial/hearing (Article 6) and to protection of their property (Article 1, Protocol 1).
25. Section 17 of the Crime and Disorder Act 1998, which requires the Licensing Authority to exercise its functions with due regard to the likely effect of its decisions on crime and disorder in their local area, this may include the misuse of drugs, alcohol and other substances.
26. There is a right of appeal for the applicant or a party to the hearing against a decision of the Licensing Subcommittee to the Magistrate's Court within 21 days of being formally told in writing.

IMPLICATIONS

Strategic Growth and Regeneration

The applicant should be advised that they should contact the Council's Planning Department for advice as to whether a change of use planning application will be required. However, this is a separate statutory process and any requirement for this is no impediment to the granting of a premises licence.

Author: Andrew Bramidge, Director of Strategic Growth and Regeneration

Finance

In the event of an appeal being lodged against the Committee's decision then should that appeal be successful costs could be awarded against the Council. In such circumstances costs would in the first instance be met from within existing budgets.

Author: Simon Freeman, Deputy to the Chief Executive and Director of Finance

Housing

As outlined in the report.

Author: Andrew Murray, Director of Housing

Communities and Environment

As outlined in the report.

Author: Jane Greer, Director of Communities and Environment

Governance and Corporate Services

Members must have due regard to the application for a new Premises Licence and the proposed licensable activities, the representations received and determine the application in accordance with the promotion of the licensing objectives. Further legal advice in relation to any aspect of this application may be provided by an Officer at the Sub-Committee hearing to enable the process to be fair to all parties.

Author: Simon Hill, Director of Governance and Corporate Services

Appendices

- Appendix A – A1 Application Form
 - A2 Non Standard Timings confirmation
 - A3 Consent to be DPS
 - A4 Premises Plan
 - A5 Premises Plan (Katherines Hatch)
- Appendix B –B1 Public Notice local authority
 - B2 Public Notice on site
 - B3 Public Notice online
- Appendix C – Essex Police agreed conditions
- Appendix D – Interested Party Representations D1-D11
- Appendix E – Applicant additional information
- Appendix F – F1 Location Plan Aerial
 - F2 Location Plan Street
 - F3 Photo front of premises

Background Papers

[Licensing Act 2003](#)

[Licensing Act 2003 Councillor's Handbook](#)

[Secretary of State's Revised Guidance issued under Section 182 of the Licensing Act 2003](#)

[Harlow Council Statement of Licensing Policy](#)

Glossary of terms/abbreviations used

DPS – Designated Premises Supervisor