

Application for a Premises Licence – The Marquis of Granby Public House, 2 Fore Street, Harlow, Essex, CM17 0AA



Report to: Licensing Sub Committee

Date: 16 November 2023

Lead Officer: Joe Mannix, Senior Licensing Officer (01279) 446129

Contributing Officer: Adam Sherwood, Principal Licensing Officer (01279) 446010

Recommended that:

- A** The Licensing Sub Committee consider the application for a new Premises Licence, including any relevant representations and evidence received to determine what steps, if any, it considers are appropriate to promote the Licensing Objectives for the overall interests of the community.
- B** In carrying out its licensing functions, the Sub Committee should give appropriate weight and consideration to:
- i) The Licensing Act 2003 (“The Act”),
 - ii) Secondary regulations issued under the Act,
 - iii) The Section 182 guidance issued to local authorities under the Act,
 - iv) The Harlow Council Licensing Policy 2019 – 2024,
 - v) The steps that are appropriate to promote the licensing objectives,
 - vi) The premises licence application, and
 - vii) Relevant representations (and any supporting evidence) submitted by all parties.

Background

1. An application has been received from Marquis (Harlow) Limited under Section 17 of the Licensing Act 2003 (“The Act”) for a new premises licence in respect of The Marquis of Granby Public House, 2 Fore Street, Old Harlow, Essex, CM17 0AA. The Sub-Committee is requested to consider the application following representations which have been received during the consultation period.
2. The applicant has agreed to reduced licensable activity and comprehensive conditions that were proposed by three responsible authorities (Police, Licensing Authority and Environmental Health).

3. However, there are still a substantial number of representations made by Other Persons. A number of these representations contain elements that are not relevant to the application and should not be considered by the Sub Committee. A summary of the relevant issues raised in these representations has been provided further in the report under the section titled "Other Persons".
4. Acting in the capacity of the Licensing Authority, to carry out its functions under the Act members must seek to promote the Licensing Objectives. 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
5. Where appropriate, there are a number of options available to the Sub-Committee under s18(4) of the Act in relation to a premises licence application for the promotion of the licensing objectives:
 - a) Grant the licence, subject to conditions consistent with the operating schedule;
 - b) Grant the licence but modify the conditions as appropriate for the promotion of the licensing objectives;
 - c) Grant the licence but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives;
 - d) Grant the licence but exclude one or more requested licensable activities;
 - e) Grant the licence but to refuse to specify a person as a premises supervisor;
 - f) Reject the application.
6. For the purposes of step b) above the conditions are modified if any of them are altered or omitted or where any new condition is added. (S18(5) Licensing Act 2003)
7. 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
8. The Marquis of Granby Public House is a grade II listed building. It is situated within the centre of Old Harlow near to a number of retail and business premises, with housing predominantly situated to the rear of the pub. There are other Public Houses in the locality. There is a car park directly adjacent to the premises. A location map can be viewed at **Annex A**.

Application

9. A completed application was made on 07 September 2023. A copy of the application is attached at **Annex B**.
10. The application initially applied for:

Sale and Supply of Alcohol (On Premises) & Provision of Live and Recorded Music (Indoors)

Sunday to Thursday	11:00 to 01:00
Friday and Saturday	11:00 to 01:30

Provision of Late Night Refreshment (Indoors)

Sunday to Thursday	23:00 to 01:00
Friday and Saturday	23:00 to 01:30

Opening Hours

Sunday to Thursday	10:00 to 01:30
Friday and Saturday	10:00 to 02:00

No Non-Standard Timings were applied for.

Consultation

11. The application was properly advertised in accordance with the Regulations by the applicant, and proof of the requisite blue notice was provided via email on 11 September 2023 attached at **Annex C**, with an end of consultation date shown as 08 October 2023.
12. The Licensing Team visited the site and found the notices placed as shown in the proof of posting, and confirmed the details listed were correct.
13. The local circular advert was placed in Your Harlow correctly advertising the application, and is attached at **Annex D**. A Public notice was also placed on the Council's website.

Representations

14. Due to the high number of representations, they are all attached under **Annex E**. The individual representations are then further organised numbering **Representation 1 to 30**.

Responsible Authorities

15. There were three representations objecting to the application by responsible authorities, namely Environmental Health, Essex Police and the Licensing Authority.
16. The Police made representation against the application in it's current format. They proposed a number of conditions which the applicant has agreed to. The agreed

conditions are attached at **Annex F**, and the outstanding timings requested are detailed in **Representation 1**.

17. Environmental Health made representation against the application; proposing timings and conditions that the applicant did not initially agree to. The representation is detailed in **Representation 2**. Environmental Health's representation was later satisfied by the Licensing Authority's agreed conditions and was withdrawn on 16 October 2023.
18. The Licensing Authority made representation against the application in its initial format and proposed different licensed timings and a comprehensive operating schedule in addition to the applicant's initially proposed conditions. The applicant has agreed to these timings and conditions, and as such the representation was confirmed to be satisfied. The representation and agreed conditions are attached in **Representation 3**, and the representation was withdrawn on this basis on 13 October 2023.

Other Persons

19. The Licensing Authority has received 27 representations by Other Persons, including 3 Councillors.
20. A number of concerns were raised by these representations, and the relevant elements are summarised below:
 - a) Late night noise and disturbance caused by the premises selling alcohol and providing music in the early hours of the morning.
 - b) Anti-social behaviour arising from patrons leaving the premises, effecting residents and children.
 - c) Concerns of Noise Nuisance due to the premises being a Grade 2 listed building, and therefore lacking noise mitigation measures.
 - d) Vandalism by patrons.
 - e) Broken glass and litter left by patrons of the premises in the locality.
 - f) Patrons urinating in the street, on shops, in bus stops and alley ways surrounding the premises.
 - g) Noise Nuisance caused by excessively loud music.
 - h) Lack of Door Supervisors effectively controlling the patrons of the premises.
 - i) Antisocial behaviour caused by persons in the car park adjacent to the premises.
 - j) Use of the rear door of the premises being restricted.

- k) Installation of a noise limiter.
- l) Windows and doors to be shut to prevent noise nuisance.

21. There were a number of elements raised that were not relevant to the issuance of this licence, as they are outside of the applicant's control. It is important to note that any conditions set for the premises must be specific to the premises, appropriate and proportionate. The licensed timings of other premises should not be considered against an individual licence.
22. The representations from other persons are attached in **Representation 4-30**.
23. The applicant and any other person who submitted a representation were sent a Statutory Notice of Hearing, inviting them to attend.
24. The council was unable to establish a quorum of members to hear the application. As such, the meeting was adjourned in the public interest until the 16 November 2023 under Section 11 of the Licensing Act 2003 (Hearings) Regulations 2005, the power to extend time. All parties present were given a hardcopy written notice, and all parties that had made representation were given written notice by email.

Determination of the application

25. Any 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 adopted Statement of Licensing Policy. Some points of reference are included in this report.
26. Members are reminded that should any conditions be added or modified, they should be practical, enforceable, and appropriate to promote the Licensing Objectives.
27. Many of the concerns raised may have been satisfied by responsible authority representation, and it is suggested that this be established towards the beginning of the hearing.
28. Relevant Extracts from the Statutory 182 guidance are attached at **Annex G**.

Statement of Licensing Policy

29. Para 5 under Prevention of Public Nuisance:
- a) The Council intends to interpret "**public nuisance**" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where

these matters impact on those living, working or otherwise engaged in normal activity in an area.

- b) Applicants need to be clear that the Council will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated effective measures planned to prevent public nuisance are in place, may be suitable for longer opening hours.

Legal Considerations

- 30. 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.
- 31. In addition to determining the application in accordance with the legislation, the Sub-Committee must have regard to the:
 - a) common rules of natural justice;
 - b) provisions of the Human Rights Act 1998; and
 - c) considerations in Section 17 of the Crime and Disorder Act 1998.
- 32. 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).
- 33. There is a statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1988 to exercise its various functions doing all that it can to prevent Crime and Disorder, and Anti-Social Behaviour, behaviour adversely affecting the environment as well as the misuse of drugs, alcohol and re-offending in the Local Environment.
- 34. Under section 181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal for the applicant or a party to the hearing against a decision of the Licensing Sub-Committee to the Magistrate's Court within 21 days of being notified.

Implications

Equalities and Diversity

None specific.

Climate Change

None specific.

Finance

In the event of an appeal being lodged against the Committee's decision then should that appeal be successful cost 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 Chief Executive and Director of Finance

Governance and Corporate Services

Members must have due regard to the application for a 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

Annexes

Annex A - Location Map

Annex B - Premises Licence Application Form

Annex C - Proof of Blue Notice

Annex D - Advert in Local Circular

Annex E - Representations (Representation 1 – 30)

Annex F - Essex Police – Agreed Conditions

Annex G - Extracts from Section 182 Guidance

Background Papers

Crime and Disorder Act 1998 section 17 -

<https://www.legislation.gov.uk/ukpga/1998/37/section/17>

Harlow Council Statement of Licensing Policy -

<http://www.harlow.gov.uk/business/licensing/alcohol-and-entertainment-licences/alcohol-and-entertainment-licensing-policy>

Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>

Licensing Act 2003 Councillor's Handbook - <https://www.local.gov.uk/publications/licensing-act-2003-councillors-handbook-england-and-wales-0>

Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK (www.gov.uk) - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Glossary of terms/abbreviations used

Section 182 Guidance – The revised guidance issued by the Home Office on behalf of the Secretary of state, under the Licensing Act 2003 Section 182.