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Licensing & Regulatory Sub-Committee

27 May 2022

**Name of Cabinet Member:**

Not applicable

**Director Approving Submission of the report:**

Chief Operating Officer (Section 151 Officer)

**Ward(s) affected:**

Earlsdon

**Title: Application for a Premises Licence under the Licensing Act 2003**

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**Is this a key decision?**

No

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**Executive Summary:**

The purpose of this report is to consider an application for a New Premises Licence under the Licensing Act 2003 for The Sundae Club, War Memorial Park, Kenilworth Road, Coventry, CV3 6BT.

**Recommendations:**

The Sub-Committee is recommended to consider whether to:

1. Grant the application as requested.
2. Grant the application subject to such conditions that are necessary to promote the Licensing Objectives.
3. Refuse the application wholly or in part where it is necessary in order to promote the Licensing Objectives

**List of Appendices included:**

1. Premises Licence application
  - 1a) Sale/supply of alcohol hours reduced
  - 1b) Updated operating schedule
2. DPS Consent Form
3. Plan of Premises
4. Representations
5. Letters of Support
6. Location Plan
7. Hearing Procedure Note
8. Relevant Hearing Briefing Note

**Other useful background papers:**

Section 182 Licensing Act 2003 Guidance

It is a statutory obligation of the Sub-Committee to take into account the Government's Guidance to the Licensing Act 2003 before reaching a decision.

**Statement of Licensing Policy**

The Council will have regard to the policy when making a decision on applications made under the Act.

**Other Useful documents**

None

**Has it been or will it be considered by Scrutiny?**

Not applicable

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Not applicable

**Report title: Premises Licence Application**

**1. Context (or background)**

- 1.1 The Licensing Act 2003 requires Coventry City Council, as the Licensing Authority, to carry out its various licensing functions so as to promote the following four Licensing Objectives:
  - The Prevention of crime & disorder
  - The Protection of public safety
  - The Prevention of public nuisance
  - The Protection of children from harm
- 1.2 A Premises Licence application for The Sundae Club was received on 5 April 2022. On the 6 April 2022, the applicant confirmed by e-mail that the Premises name should be corrected to Sundae Club (previously Sunday Club) The application is requesting the sale/supply of alcohol (on sales only); Monday to Sunday 11.00hrs - 23.00hrs, and the provision of live and recorded music Monday to Sunday 11.00hrs - 23.00hrs.
- 1.3 During the 28 day consultation period, the applicant agreed to amend the application to reduce the sale/supply of alcohol to 20:00hrs Monday to Sunday and to fully remove live and recorded music as a licensable activity, following discussion with Police and Environmental Protection. (Appendix 1a). An updated operating schedule was submitted by the applicant on 19 April 2022. (Appendix 1b).
- 1.4 One representation from a member of the public (other persons) representing Friends of War Memorial Park, has been received for the application (outlined in paragraph 3.3) (Appendix 4)
- 1.5 Two letters of support have been received for the application (outlined in paragraph 3.4) (Appendix 5).
- 1.6 The operating schedule detailed in the application has now been superseded following discussion with Police and Environmental Protection. The applicant agreed to submit a more robust operating schedule during the consultation period to fully satisfy the Responsible Authorities concerns about alcohol sales in the park. Therefore, in addition to the mandatory conditions, the Sub-Committee should refer to the updated operating schedule (Appendix 1b).
- 1.7 The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' which sets out the policies the Council will have regard to and apply to promote the Licensing Objectives when making a decision on applications made under the Act. The Policy will be available at the hearing for reference purposes.
- 1.8 It is essential that the Sub-Committee takes into account the government's guidance to the Licensing Act before reaching a decision. The applicant, Responsible Authorities, or any other persons, should bring to the Sub-Committee's attention any relevant paragraphs. However, it is suggested good practice for Members of the Sub-Committee to read the relevant paragraph(s) of the guidance prior to the hearing.

## **2. Options considered and recommended proposal**

2.1 There are three courses of action available to the Sub-Committee in relation to this application:

- (i) Grant the application as requested. If the Sub-Committee consider that granting the application would not undermine any of the Licensing Objectives, it should be granted in full as submitted. This would be granted subject to mandatory conditions and conditions consistent with the applicant's operating schedule, and any other conditions agreed by the applicant as part of the consultation / mediation process. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.
- (ii) Grant the application as above, but the Sub-Committee could impose extra conditions as it thinks fit, or make amendments to the operating schedule conditions, and/or proposed hours. This option may include adding any conditions suggested by other parties at the hearing, including the applicant. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.
- (iii) If the Sub-Committee concludes that no additional conditions would ensure that the Licensing Objectives would be upheld, then the whole application should be rejected.

2.2 Your officer recommends option (i).

The reason for this recommendation is that the applicant has voluntarily updated and adjusted the application and operating schedule following discussion with Police and Environmental Protection.

The Responsible Authorities who responded to the Consultation have not offered up further conditions because they consider the application to be suitably conditioned by the applicant for the type of business model and operation intended at the premise and if problems do occur then the Review procedure is available to both Responsible Authorities and any other persons.

2.3 The Sub-Committee are advised that they may depart from the officer recommendation if, having heard all the evidence, they believe it is appropriate to do so. Should the Sub-Committee decide to depart from the recommendation and choose an alternative option, they must provide full reasons for this decision, based on the promotion of the Licensing Objectives. This application should be considered on its own merits and all the circumstances taken into account before a decision is made.

2.4 The Sub-Committee must also be aware that licences can be reviewed at any time by any Responsible Authority or any 'other person', if it is considered that any of the Licensing Objectives have been undermined following the grant of the Premises Licence.

## **3. Results of consultation undertaken**

3.1 As prescribed by the Licensing Act 2003, the application has been out for consultation to statutory consultees (Responsible Authorities) and any other persons for 28 days in the form of a notice displayed on the premises, and a notice published in a local newspaper.

3.2 Responsible Authorities have received a copy of the application. Please see below responses received:

<b>Responsible Authority</b>	<b>Response Received</b>	<b>Objections</b>	<b>Conditions Agreed</b>
<b>Licensing</b>	Yes	No	No
<b>Police</b>	Yes	No	No
<b>Environmental Protection</b>	Yes	No	No
<b>Fire Safety</b>	No	-	-
<b>Health &amp; Safety</b>	No	-	-
<b>Trading Standards</b>	Yes	No	No
<b>Planning</b>	No	-	-
<b>Safeguarding Children</b>	Yes	No	No
<b>Public Health</b>	No	-	-
<b>Secretary of State</b>	No	-	-

3.3 One representation from a member of the public (other persons) representing Friends of War Memorial Park has been received (Appendix 4). The grounds for the representation is that the granting of a Premises Licence would undermine the licensing objective of Prevention of Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm.

3.4 Letters of support for the application have been received from members of the public. (Appendix 5)

3.5 Mediation was attempted by the Licensing Officer on behalf of the applicant and the objector, but a common ground was not found.

#### **4. Timetable for implementing this decision**

4.1 The Appeal period is 21 days beginning on the date that the Appellant(s) receive notification of the decision of the Licensing Authority.

#### **5. Comments from Chief Operating Officer (Section 151 Officer) and Director of Law and Governance**

##### **5.1 Financial implications**

There are no financial implications arising directly from this report. However, there are possible cost implications if an appeal against the decision is made to the Magistrates Court and the decision of the Sub-Committee is not upheld.

##### **5.2 Legal implications**

The Licensing Act 2003 sets out how applications for Premises Licences should be dealt with where valid representations have been submitted. The Sub-Committee have to decide the outcome of the application taking into account the four Licensing Objectives.

In accordance with the provisions of the Act, if a Licensing Authority rejects in whole or in part, an application to grant a Premises Licence, the applicant may appeal against the decision, to a Magistrates' court within 21 days of receiving notification of the decision.

Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted or that alternative or additional conditions should have been imposed on the licence, they may appeal against the decision, to a Magistrates' court within 21 days of receiving notification of the decision.

## **6. Other implications**

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy**

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. The business' failure to uphold the Licensing Objectives may have an adverse effect on Public Safety and citizen's quality of life.

### **6.2 How is risk being managed?**

If the application is not handled in line with the Licensing Act 2003, there is a risk of judicial appeals, reviews and associated costs.

### **6.3 What is the impact on the organisation?**

None

### **6.4 Equalities / EIA**

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

### **6.5 Implications for (or impact on) climate change and the environment**

None

### **6.6 Implications for partner organisations?**

The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the West Midlands Police, Community Safety Partnership, local people and those involved in child protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined.

### **6.7 Human Rights Act Implications**

None

#### **Report author(s):**

#### **Name and job title:**

Billy Rawlings, Licensing Officer

**Service:** Street Scene and Regulatory Service

**Telephone:** 024 7697 2249

**Email:** [billy.rawlings@coventry.gov.uk](mailto:billy.rawlings@coventry.gov.uk)

Enquiries should be directed to the above person.

<b>Contributor/approver name</b>	<b>Title</b>	<b>Service</b>	<b>Date doc sent out</b>	<b>Date response received or approved</b>
<b>Contributors:</b>				
Usha Patel / Carolyn Sinclair	Governance Services Officer	Law and Governance	04/05/22	09/05/2022
Debbie Cahalin-Heath	Strategic Manager of Regulation	Regulatory Services	04/05/22	09/05/2022
Davina Blackburn	Strategic Lead of Regulation	Regulatory Services	04/05/22	09/05/2022
<b>Names of approvers for submission: (officers and members)</b>				
Syeda Ahmed	Solicitor	Law and Governance	04/05/22	10/05/22
Cath Crosby	Lead Accountant	Finance	04/05/22	04/05/22
Barry Hastie	Director	Finance & Corporate Resources	10/05/22	13/05/22

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