1. **INTRODUCTION**

1.1 This report requests that the Licensing Sub-Committee determines the application for the renewal of the existing temporary public entertainment licence in respect of the Blues Cafe Bar, Gillingham Football Club, Redfern Avenue, Gillingham.

2. **DECISION ISSUES**

2.1 The sub-committee has delegated powers to determine this matter and may consider the options set out at paragraph 5.9 of the report.

3. **RECOMMENDATION**

3.1 That the renewal application is considered and determined by the committee.

4. **BACKGROUND**

4.1 Currently the Blues Cafe Bar, Redfern Avenue, Gillingham has a temporary public entertainment licence with the following permitted hours of operation:-

- 11.00am to 11.00pm- Monday to Wednesday
- 11.00am to midnight- Thursdays
- Noon to 1.00am the following morning on Fridays and Saturdays
- Noon-10.30pm- Sundays

The current maximum occupancy on the licence is 500 persons and a copy of the current temporary licence issued in respect of this premises is attached at Appendix A.

4.2 The current operating hours on the licence were agreed by the Licensing Sub-committee on 2 April 2004 as a result of their consideration of a variation application. A copy of the minute of that
meeting and the decision letter to the applicants solicitor is attached at Appendix B.

The sub-committee is requested to note the conditions on the licence which were imposed to protect local residents from disturbance and noise.

4.3 An application dated 21 September 2004 for renewal of the existing temporary public entertainment licence has been received. The application seeks to renew the existing operating hours as shown at paragraph 4.1.

A copy of the application and location plan are attached at Appendix C.

4.4 The applicant has complied with the application procedures including giving public notice as outlined in the Medway Council (Public Entertainment) Regulations 1998 and the application has been processed in the usual manner by way of internal and external consultation. The results of this consultation are detailed within this report.

4.5 The application for renewal of the existing temporary public entertainment licence has been brought before the sub-committee for decision in the light of the comments expressed by the public, consultees and Council officers in the report.

5. COMMENTS OF THE LICENSING TEAM

5.1 The Council’s current public entertainment policy aim is “To promote public safety and welfare in places of public entertainment and to minimise the impact of licensable public entertainments to the local community wherever licensing controls permit and in accordance with licensing legislation and Central Government guidance.”

5.2 The decision of the Licensing Sub-committee on 2 April 2004 to extend the operating hours was accompanied by licence conditions (see Appendix A). Officers have monitored compliance with the conditions by way of regular visits and offer the following observations:-

(a) the club does not allow entry into the premises after 11pm
(b) the CCTV cameras that cover the external areas and are under the club’s control are switched on at 8pm and remain operative until at least an hour after closing time. Tapes are retained for 31 days and have been produced on request. The police have on two occasions taken tapes for other evidential purposes on unrelated matters.
(c) The telephone number of the Blues Café Bar is on display on the outside of the premises
(d) The club has introduced a swipe card membership system.
(e) The club has also installed a free phone in the foyer to enable clients to call for taxis inside the premises and to avoid them having to stand outside in the street to call on the phone for cabs.

5.3 Monitoring of the premises and adjoining areas were also undertaken on five occasions by Council officers since the temporary licence was granted in April 2004, to assess any late night disturbance from customers dispersing from the premises. The monitoring was undertaken on Thursday, Friday and Saturdays evenings between 11.30pm and 2.0am.

5.4 It should be noted that on each occasion the door supervisors on duty at the premises were very professional and made every effort to encourage quiet dispersal. However, their responsibility and authority only extends to the immediate area outside the club and the very near vicinity of the premises.

5.5 Officers observations were that dispersal noise and disturbance as a result of customers leaving the premises was not particularly excessive in the immediate environs of the club (ie Redfern Avenue). However, as customers proceeded into adjoining roads, ie Toronto Road, Sunnymead Avenue, Chicago Avenue, Canadian Avenue, Linden Road, Ferndale Road etc, noise levels and anti-social behaviour appeared to increase to a level that would disturb local residents late in the evening or in the early hours of the morning. A number of the customers observed appeared to be in various states of intoxication.

5.6 For the sub-committee’s information, in close proximity to the Blue’s Café Bar (within 1/4 mile) are three off-licences open to 11pm and a public house which holds a public entertainment licence with operating hours to 11pm Monday-Wednesday, midnight Thursday-Saturday and 10.30pm on Sundays. Officers monitoring indicates that dispersal from these premises does not significantly contribute to the disturbance and other noise referred to by local residents in paragraph 6 of the report.

5.7 The sub-committee will note that following its decision to extend the club’s operating hours in April 2004, complaints from local residents regarding unacceptable levels of noise and disturbance from customers leaving the premises late at night and into the early hours, have been received by the Council on a regular basis from 9 May 2004 to date.

5.8 In summary, the licensees have complied with the conditions imposed by the sub-committee on 2 April 2004 (paragraph 5.2 refers). However, the Council’s monitoring observations on dispersal indicates that once customers have left the immediate vicinity of the premises, noise nuisance, disturbance, anti-social behaviour is at a level likely to disturb local residents in adjoining roads, late at night and into the early hours.
of the morning. This is confirmed by the letters and diaries of complaint received from local residents (paragraph 6 refers).

5.9 Finally, the committee is asked to consider the information in this report and consider all the options available, which are as follows:-

(a) Refuse the renewal application
(b) Grant the renewal application as submitted
(c) Grant the renewal application but with amended operating days and hours or other conditions.

6. OBJECTIONS AND CONSULTEES COMMENTS

6.1 The Council has currently received 50 letters and diary sheets of objection to the application from local residents. The objections are mainly on grounds of unacceptable noise disturbance and antisocial behaviour from customers dispersing from the club late at night and into the early hours of the morning. Residents have also expressed a clear view that since the extended operating hours were granted in April 2004, the noise disturbance has become totally unacceptable. These objections are attached for the committee’s consideration at Appendix D. A plan showing the location of the objectors in relation to the Blues Cafe Bar is attached at appendix E.

6.2 The Council’s environmental health team comment that :-

Condition 17 of the Medway Council (Public Entertainment) Regulations 1998 relates to the control of noise. The condition includes a guide to compliance for music noise control and this relies on the music noise being judged against existing background noise.

These premises have been constructed to accommodate amplified music and an acoustic report submitted in 2002 indicated that music noise was not audible at nearby dwellings. There have been no complaints specifically relating to music noise resulting from the current use of the venue.

6.3 The Council’s traffic management and parking services team comment that they have received no direct complaints regarding activities associated with the Blues Café Bar. Parking services will continue to enforce the parking regulations in this area, which continues to be very successful.

6.4 The Police have commented as follows:-

“Introduction

The Licensing Sub-committee agreed extended operating hours in April 2004 and a temporary public entertainment licence issued on 14 May
2004. This report aims to show any observations/concerns police have over the period the variation has been operating.

**Management of the Premises**

Police have found the applicants to be fit and proper to run this type of licensed premises.

Although there have been a number of calls for police assistance in relation to disorder, it is not found to be a problem establishment. Listed below are the figures for police assistance five months previous to the extended hours variation being issued and the last five months it has been in place.

- From 4 January to 12 May 2004 police attended the premises on four occasions and there were no arrests
- From 4 May to 24 October 2004 police attended on eight occasions and there was one arrest.

**Complaints**

Since the variation was issued, police have received 3 complaints from members of the public. Two were about noise when persons were leaving the premises at closing time and the third alleged that the licensees names were not above the door leading into the Blues Club.

**Concerns**

There are a number of police concerns, these are associated with the premises being located in the centre of a residential area:

- Dispersal of patrons at closing time.
- Noise - It is apparent that late night venues have a persisting problem in getting persons to leave an area quietly.
- Local parking issues and problems with illegal parking.
- The magnitude of patrons on days of a designated football event, a pre-booked event in the function room and the general operation of the Blues Café Bar. This can be a strain on police resources and increase the potential for crime and disorder in the premises and in the vicinity of the premises.

**Conclusion**

Whilst, the Police have no objection in principle to the premises holding a Public Entertainment Licence, we remain concerned as to the hours operated and requested in the renewal application.”
7. **SUBMISSION BY APPLICANT**

7.1 A letter dated 11 November 2004 from ASB Law in support of their client’s case is attached at Appendix F for the committee’s consideration. The applicants will be attending the hearing to present their case. Should any further written submission be received in sufficient time prior to the meeting, it will be circulated.

8. **HUMAN RIGHTS IMPLICATIONS**

8.1 The sub-committee’s attention is drawn to the assessment at Appendix G.

9. **FINANCIAL IMPLICATIONS**

9.1 There are no direct financial implications for Medway Council concerning this matter at present. However, should any appeal be lodged, there may be costs associated with this process. Legal advice will be given to Members as appropriate at the meeting.

10. **LEGAL IMPLICATIONS**

10.1 The Local Government (Miscellaneous Provisions) Act 1982 requires all public entertainments to be licensed by the local authority and compliance with the terms of that licence which may be granted subject to conditions.

Conditions relating to matters such as hours and days of operation, noise levels, fire precautions, sanitation and conditions imposed to avoid nuisance to the occupiers of nearby properties are lawful.

11. **CONCLUSION**

11.1 The committee is asked to consider and determine the application for renewal of the existing temporary public entertainment licence in respect of the Blues Cafe Bar.

12. **BACKGROUND PAPERS**

1. Application documents on file
2. Current licence (see Appendix A to report)
3. Minute and decision letter (see Appendix B to report)
4. Application for licence renewal (see Appendix C to report)
5. Letters of objection (see Appendix D to report)

Available from Chris Webb, licensing co-ordinator
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