

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL
LICENSING COMMITTEE – 4TH AUGUST 2004
REPORT OF THE MANAGER OF CENTRAL SUPPORT**

**Local Government (Miscellaneous Provisions) Act 1982
Application for the Grant of an Annual Public Entertainment Licence**

Purpose of Report

To determine an application for the grant of an annual Public Entertainment Licence in respect of Ashby Grammar School, Nottingham Road, Ashby de la Zouch, Leicestershire, LE65 1DT. The applicant is Mrs Vivien Keller-Garnett.

Remit of the Board

To determine the application.

Policy Matters

None.

Financial/Staff Resources

None.

Anti-Poverty

None.

Crime and Disorder

The Chief Officer of Police is a statutory consultee for matters including crime and disorder relating to public entertainment licence applications.

Section 17(1) of the Crime and Disorder Act 1998 places a duty on local authorities to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.

Standard conditions subject to which public entertainment licences are granted, renewed or transferred include requirements relating to proper supervision, maintaining good order in premises, undesirables and intoxicants.

Human Rights

Under Article 1 of the First Protocol, licence holders are entitled to the peaceful enjoyment of their possessions.

Under Article 8 of the First Protocol, everyone has the right to respect for his private and family life, his home and his correspondence.

1. Legislation

- 1.1 The licensing of public entertainment is controlled by the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 A public entertainment licence is required for public dancing, music or any other entertainment of a like kind.
- 1.3 Under Paragraphs 1(4) and 2(4) to Schedule 1 of the Act, the District Council may grant a licence subject to such terms and conditions and subject to such restrictions as may be so specified.
- 1.4 The power to impose conditions is broadly specified and enables any conditions to be imposed which are bona fide for a public purpose relating to the situation caused by the use of the premises in accordance with the terms of the licence. Conditions that are not so related however, will be ultra vires.
- 1.5 In addition to 1.3 above and in accordance with Paragraph 11(1), the District Council has prescribed standard conditions subject to which every indoor public entertainment licence is granted, renewed or transferred unless they have been expressly excluded or varied. The conditions fall within three broad headings of public safety, public health and public order.

2. Background

- 2.1 On 4th May 2004 officers received an application for the grant of an annual Public Entertainment Licence in respect of Ashby Grammar School, Nottingham Road, Ashby de la Zouch. The applicant has indicated that the licence is sought for the purpose of providing musical and dance concerts less than 50 times a year. The application relates to the Lecture Theatre and Drama Studio only and indicates that the premises will not stay open after midnight. A copy of the application document is attached as appendix 1.
- 2.2 Thirty letters objecting to the granting of a licence have been received from local residents. A copy of each letter is attached as appendix 2 to 31.
- 2.3 Officers understand that the Head Teacher and applicant delivered a letter to some residents outlining their intended entertainment activities. A copy of the letter, which is produced as appendix 32, was also given to officers who in turn forwarded it to objectors.
- 2.4 A map indicating the position of the objector's properties and the premise to which the application relates is attached as appendix 33.
- 2.5 Following notification of the objections, the applicant advised that the hours and days during which public entertainment were permitted by standard licence conditions, that is Monday to Sunday 9.00am to 12.00 midnight were excessive. She agreed to conditions being attached to a licence if granted restricting the number of events each week to three except that on two occasions during the course of the licence year four nights are permitted. In addition, entertainment

must cease at 10.30pm. A copy of a signed consent to these conditions is attached as appendix 34.

- 2.6 The stated grounds for objection include reference to increased noise levels and the Environmental Protection Department has been contacted as a matter of course. Mr Steve Leeland – Environmental Protection Officer has confirmed that he has no objections to the granting of a licence from the point of increased noise constituting any form of nuisance to local residents. A copy of his memorandum is attached as appendix 35.
- 2.7 Having regard to the objectors alleged litter problems, Mr Leeland also contacted a member of the waste and recycling team who advised that no complaints regarding litter attributed to the School had been received since March 2003. This coincides with the Council siting two additional waste bins on Range Road and the school itself installing new waste bins on the school site.
- 2.8 No other objections or representations have been received from consultees, namely, the Leicestershire Constabulary, Leicestershire Fire and Rescue Service, Health and Safety Department and Ward Councillors.
- 2.9 Officers understand that unlicensed public entertainment events have taken place previously in the form of school concerts and dance school performances to which members of the public have been permitted to attend. Upon advice from a Licensing Officer to the effect that a licence was required for such events to continue, an application was promptly made and future planned public entertainment events cancelled pending determination of the application.
- 2.10 The premise Lecture Theatre and Drama Studio has the benefit of an annual Theatre Licence issued by this authority which permits theatrical performances including musicals during standard licence hours, that is 9.00am to 12.00 midnight Monday to Sunday. A Theatre Licence was first issued on 30th May 1991 and the current licence is due to expire on 28th June 2005.
- 2.11 The current Theatre Licence permits a capacity of 250 persons inclusive of persons employed within the premises and those associated with the entertainment. The same capacity figure would be attached to a public entertainment licence if granted.
- 2.12 The most recent Theatre Licence application indicated that there are spaces for 150 vehicles 2 spaces for disabled parking.
- 2.13 The Licensing Section has no record of any complaints received in respect of any previous public entertainment events or theatrical performances from the date on which the theatre licence was first issued to the present day.

3. Relevant Considerations

- 3.1 Relevant considerations must be taken into account by licensing authorities when determining whether or not a licence should be granted or renewed. These will include the fitness of the applicant to hold a licence, the nature of the

entertainment, the suitability of the place at which the entertainment takes place and the facilities that are provided there.

- 3.2 The main grounds for the resident's objections relate to noise and general disruption to the neighbourhood, increased traffic and car parking. All of the grounds may be relevant in the present context.
- 3.3 Noise may occur due to unacceptable noise levels arising from the entertainment itself or by those attending the entertainment. Furthermore, the immediate physical environs of the premise, such as the means of access to the premises and the facilities available for car parking, may render location of the premises unsuitable. Assessing the adequacy of car parking can be a difficult task but consideration should be given to the number of spaces available, the number of persons who might be expected to be on the premises and who might be expected to be vehicle drivers. This may be affected if the premises are in an area well serviced by public transport.
- 3.4 Members may have regard to any evidence of noise disturbance or other nuisance on record and whether it can be demonstrated that such nuisance can be attributed to the operation of the premises for public and theatrical entertainment purposes or its customers.

4. Options

- 4.1 The Committee has in principle a number of options open to it in determining this application. Clear reasons should be given for the decision made and any such reasons would need to be capable of being substantiated at any appeal hearing. The Legal Advisor to the committee will be able to advise members at the meeting on this area.

4.1.1 Grant

The Committee may determine to grant the licence on the terms sought by the applicant.

4.1.2 Grant with Conditions

The Committee may determine to grant the licence subject to altered standard conditions or with additional conditions.

The applicant has a right of appeal to a magistrate's court if they are aggrieved by any term, condition or restriction on or subject to which the licence is held.

4.1.3 Refuse

The Committee may determine to refuse to grant the licence.

The applicant has a right of appeal to a magistrate's court against refusal to grant a public entertainment licence.

4.1.4 Grant for Shorter Period.

All public entertainment licences issued by this authority expire on 31st March. If Members were to grant the licence therefore, it would expire on 31st March 2005. It is however, open for the Committee to grant the licence for a lesser period if considered appropriate.

5. RECOMMENDED:

- 5.1 That the application by Mrs Vivien Keller-Garnett for the grant of an annual public entertainment licence in respect of Ashby Grammar School, Nottingham Road, Ashby de la Zouch, Leicestershire be determined having regard to representations by the applicant, residents and any other relevant circumstances.**

Background Papers: None

L Gill
Manager of Central Support
21st July 2004

(Contact officer – Joanne Brookbanks – 01530 454844)