



Committee and Date

Licensing Act Sub-Committee

Friday 6th July 2018

Item

3

Public

LICENSING ACT 2003

APPLICATION FOR A VARIATION OF A PREMISES LICENCE

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1. Summary

Shropshire Council being the authorised licensing authority for:

- Wheatsheaf Inn, Lower Broad Street Ludlow, SY8 1PQ.

has received an application for a variation of the premises licence at the premises. A location plan is attached to the report as Appendix A.

The application has been accepted as a valid application and during the statutory consultation period relevant representations were made. The application is therefore required to be determined by way of a hearing of the Licensing Act Sub-Committee.

In determining the application, the Licensing Authority must give appropriate weight to:

- the steps that are necessary to promote the licensing objectives;
- the representations (including supporting information) presented by all parties;
- Guidance issued under Section 182 of the Licensing Act 2003;
- Shropshire Council's Statement of Licensing Policy 2014 - 2019.

After considering all the relevant issues the Licensing Authority may grant the application in full or in part, subject to such conditions that are deemed necessary and appropriate. Any conditions imposed must be appropriate for the promotion of the licensing objectives.

Alternatively, the application can be refused if it is considered appropriate for the promotion of the licensing objectives.

Following a hearing, the Licensing Authority should give its decision and provide reasons to support it. This will be important if there is an appeal by any of the parties.

All parties are required to be notified of a decision and that decision should be accompanied by information on the right of the party to appeal.

2. Recommendations

That the Sub-Committee determines the application in accordance with the Statutory Guidance issued under s182 of the Licensing Act 2003, the Council's Statement of Licensing Policy 2014 - 2019, the information contained within this report, supporting documentation and having had due regard to the applicant and the parties/authorised bodies making relevant representations.

That the Sub-Committee determines the application in accordance with the options in paragraph 9.

That the Sub-Committee provides the reasons for its decision.

REPORT

3. Human Rights Act Appraisal

The Committee is required to consider the consequences of refusal or approval on the applicant's human rights.

4. Financial Implications

None.

5. Purpose of Report

To consider an application for a variation of the premises licence for the Wheatsheaf Inn, Lower Broad Street, Ludlow, SY8 1PQ.

6. Background

6.1 Marston's PLC has made an application for a variation of the premises licence. Marston's PLC are the premises licence holder, Mr Ken Peacock is the Designated Premises Supervisor and tenant of the premises.

6.2 The existing Premises Licence permits the following:

Supply of Alcohol (on/off premises)

Monday to Saturday 10:00 - 00:00

Sunday 10:00 - 23:30

Non Standard Timings

On Fri/Sat/Sun/Mon on May/Spring/Whitsun and August Bank Holiday

weekends, Thu/Fri/Sat/Sun/Mon of Easter Bank Holiday weekend, any other Bank Holiday, Xmas Eve, Boxing Day, 29/30 December and each night of Ludlow Festival/Ludlow Food & Drink Festival/Ludlow Medieval Fair - an additional hour into the morning. End time on New Year's Eve is end time on New Year's Day.

Indoor Sporting Events

Friday and Saturday 10:00 - 00:00

Sunday to Thursday 10:00 - 23:00

Non Standard Timings

On Fri/Sat/Sun/Mon on May/Spring/Whitsun and August Bank Holiday weekends, Thu/Fri/Sat/Sun/Mon of Easter Bank Holiday weekend, any other Bank Holiday, Xmas Eve, Boxing Day, 29/30 December and each night of Ludlow Festival/Ludlow Food & Drink Festival/Ludlow Medieval Fair - an additional hour into the morning. End time on New Year's Eve is end time on New Year's Day.

Late Night Refreshment (Indoors)

Friday and Saturday 23:00 - 00:00

Non Standard Timings

On Fri/Sat/Sun/Mon on May/Spring/Whitsun and August Bank Holiday weekends, Thu/Fri/Sat/Sun/Mon of Easter Bank Holiday weekend, any other Bank Holiday, Xmas Eve, Boxing Day, 29/30 December and each night of Ludlow Festival/Ludlow Food & Drink Festival/Ludlow Medieval Fair - an additional hour into the morning. End time on New Year's Eve is 05.00 on New Year's Day.

Live Music (Indoors)

Friday and Saturday 10:00 - 00:00

Sunday to Thursday 10:00 - 23:00

Non Standard Timings

On Fri/Sat/Sun/Mon on May/Spring/Whitsun and August Bank Holiday weekends, Thu/Fri/Sat/Sun/Mon of Easter Bank Holiday weekend, any other Bank Holiday, Xmas Eve, Boxing Day, 29/30 December and each night of Ludlow Festival/Ludlow Food & Drink Festival/Ludlow Medieval Fair - an additional hour into the morning. End time on New Year's Eve is end time on New Year's Day.

Recorded Music (Indoors)

Friday and Saturday 10:00 - 00:00

Sunday to Thursday 10:00 - 23:00

Non Standard Timings

On Fri/Sat/Sun/Mon on May/Spring/Whitsun and August Bank Holiday weekends, Thu/Fri/Sat/Sun/Mon of Easter Bank Holiday weekend, any other Bank Holiday, Xmas Eve, Boxing Day, 29/30 December and each night of Ludlow Festival/Ludlow Food & Drink Festival/Ludlow Medieval Fair - an

additional hour into the morning. End time on New Year's Eve is end time on New Year's Day.

- 6.3 The variation application seeks to amend the following:

Late Night Refreshment (Indoors)

Monday – Saturday: 23:00 – 00:00

Sunday: 23:00 – 23:30

Non Standard Timings

On Fri/Sat/Sun/Mon on May/Spring/Whitsun and August Bank Holiday weekends, Thu/Fri/Sat/Sun/Mon of Easter Bank Holiday weekend, any other Bank Holiday, Xmas Eve, Boxing Day, 29/30 December and each night of Ludlow Festival/Ludlow Food & Drink Festival/Ludlow Medieval Fair - an additional hour into the morning. End time on New Year's Eve is end time on New Year's Day.

- 6.4 The reason for requesting this variation is to allow the sale of hot drinks e.g. tea and coffee to patrons whilst the premises is open for the supply of alcohol. At present, there are certain times when patrons could purchase and consume alcohol while the premises is open, but not hot drinks, because late night refreshment is not permitted by the licence on those days. The applicant feels that this limits the options for patrons and means they don't have the option of a non-alcoholic hot drink at some times the premises is open.
- 6.5 The variation application seeks to remove the following condition from the embedded restrictions attached under the Licensing Act 1963 regarding children:

No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- 1) He is the child of the holder of the premises licence*
 - 2) He resides in the premises, but is not employed there*
 - 3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.*
 - 4) The bar is in premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.*
- In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.*

- 6.6 The variation application seeks to replace the above condition in the Protection of Children from Harm section of the premises licence with the following:

Children under the age of 16 shall not be permitted to enter the premises after 21:00 unless accompanied by an adult and either dining or attending a private function.

- 6.7 The variation application seeks to amend condition 2 of the Prevention of Crime and Disorder conditions on the current licence, which is:

Alcoholic and other drinks will not be permitted to be removed from the premises in open containers

- 6.8 The proposed amendment to the above condition is:

Alcoholic and other drinks will not be permitted to be removed from the premises in open containers except for consumption in any external area provided for that purpose. Alcohol shall not be permitted to be consumed in such external area after 22:00 Sunday – Thursday or after 22:30 Friday – Saturday.

- 6.9 The premises currently has the benefit of a pavement permit, which allows three wooden picnic benches within an area 6.5m x 1.6m at the front of the premises. In effect, this area is the cobbled area to the left of the premises front door when standing opposite and facing the premises. The pavement permit has effect from 1st June 2018 to 31st May 2019, after which the premises will have to apply to renew the permit.

- 6.10 It should be noted that the pavement permit does not apply times at which the area may or may not be in use. It does require that the furniture is put out of use when the premises is not open.

- 6.11 It should also be noted that the outside pavement permit area is not included in the licensed area of the premises. Any conditions which are attached to the licence do not therefore apply in this area.

7. Representations received (Responsible Authorities)

- 7.1 Representations were received from the Police, Environmental Health and Trading Standards. These representations mainly relate to the Prevention of Public Nuisance and the impact amending the condition to permit drinks in open containers to be removed from the premises may have in terms of noise and impact on those in the surrounding area. This is as a result of complaints received by all three authorities about this.

8. Representations received (Other Persons)

- 8.1 18 representations have been received from 'other persons'. Six of the representations were in objection to the application. Objectors primarily have concerns in respect of the Prevention of Public Nuisance, principally the concerns relate to the nuisance that might be caused at neighbouring residential properties by allowing the requested variations to the condition which prevents drinks in open containers being removed from the premises.

- 8.2 12 of the representations from 'other persons' were in support. Primarily they are persons who live locally to or are customers of the premises. It should be noted that one representation is from a person who lives outside Shropshire and is not therefore directly affected by the premises.

8.3 The applicant has indicated that they wish to continue with the application as detailed above. None of the representations have been withdrawn.

9. Options for Consideration

9.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

- To refuse to grant the application
- To grant the application with (or without) conditions in full (or in part)

9.2 If the application is to be granted in line with the submitted operating schedule then the amendments/additions with additional wording as detailed in paragraphs 6.3, 6.4 and 7.1 of this report would need to be included in the licence.

9.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premises, it would not be appropriate to impose similar duties.

9.4 Members of the Sub-Committee should be advised that the applicant, licence holder or any other person who made relevant representations in relation to the application may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

10. Standard of Decision Making

10.1 In accordance with the provisions of the Licensing Act 2003 and the Council's scheme of delegation, all applications where a relevant representation has been made have to be determined by this Sub-Committee.

10.2 When determining the application, the Sub-Committee should only consider issues, which relate to the four licensing objectives. The licensing objectives are:

- The prevention of Crime and Disorder
- Public Safety
- The prevention of a Public Nuisance
- The protection of Children from Harm

10.3 Members of the Sub-Committee must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. Members of the Sub-Committee may deviate from the statutory guidance and licensing policy only if they deem that there is good reason to do so.

10.4 Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or

the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Shropshire Council Statement of Licensing Policy 2014 - 2019.
Guidance issued under section 182 of the Licensing Act 2003 (March 2015).
The Licensing Act 2003 (Hearings) Regulations 2005.
Application form and copies of representations
Existing Licence (17/01033/LVDPS)

Cabinet Member (Portfolio Holder)

Cllr J Barrow

Local Member

Cllr A Boddington

Appendices

Appendix A (1 and 2) – Location Plans

Appendix B – Current Licence 18/01514/LVDPS