

Meeting:	Licensing sub committee
Meeting date:	Monday 15 January 2017
Title of report:	Application for a variation of a premises licence in respect of: The Lion Hotel, High Street, Leintwardine, SY7 0JZ – Licensing Act 2003
Report by:	Licensing Officer

Classification

Open

Key Decision

This is not an executive decision.

Wards Affected

Mortimer Ward

Purpose

To consider an application for a variation of a premises licence in respect of 'The Lion Hotel, High Street, Leintwardine. SY7 0JZ'.

Recommendation

THAT:

The sub-committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- **The steps that are appropriate to promote the licensing objectives,**
- **The representations (including supporting information) presented by all parties,**
- **The guidance issued to local authorities under Section 182 of the Licensing Act 2003, and**
- **Herefordshire Council statement of licensing policy 2015-2020.**

Options

1. There are a number of options open to the sub-committee:
 - (a) to modify the conditions of the licence;
 - (b) to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Reasons for Recommendations

2. Ensures compliance with the Licensing Act 2003.

Key Considerations

Licence Application

3. The application (appendix 1) for a variation of the premises licence has received representation and is brought before the committee for determination.
4. The details of the application are:

Applicant	The Radnor Hills Mineral Water Co. Ltd.	
Agent	Nick Semper, Semper Fidelis Consultancy, Rural Enterprise Centre, Vincent Carey Road, Rotherwas Business Park, Hereford , HR2 6FE	
Type of application: Variation	Date received: 16 November 2017	28 days consultation ended 13 December 2017

Summary of Application

5. The application requests a variation to the premises licence to add Plays to the licensable activities, as well as amend some of the existing timings for those licensable activities already shown on the licence.

The application requests Plays (indoors/outdoors) be authorised:

Sunday -Thursday 08:00-24:00
Friday -Saturday 08:00-02:00

6. The application requests that the hours be amended to those shown for the following licensable activities:

Films (Indoors/Outdoors), Indoor Sporting Events
All days 08:00-00:30

Live Music, Recorded Music, Anything Similar to regulated Entertainment (indoors/outdoors), Sale/Supply of Alcohol (on and off the premises):

Sunday – Thursday 08:00-00:00
Friday -Saturday 08:00-02:00

Late Night Refreshment (Indoors/Outdoors)

Sunday – Thursday 23:00 – 00:00

Friday – Saturday 23:00 - 02:00

Non-Standard Timings

Sunday before Bank Holidays and all Bank Holidays (excluding Christmas Day)
08:00 – 02:00

New Year's Eve from the end of licensable activities until the start of licensable activities New Year's Day

7. In addition the applicant requests that the premises licence be allowed to authorise a maximum of 6 events per calendar year of 500-2000 people in the outside area.
8. The applicant requests that all existing conditions shown on the licence be removed and replaced with conditions which will apply for events of less than 500 people and a further set of conditions for events where more than 500 people will be in attendance.

Current Licence

9. The current licence (appendix 2) authorises the following licensable activities during the hours shown:

An exhibition of a film; An indoor sporting event
Monday-Sunday: 11:00 - 00:30

A performance of live music; Any playing of recorded music; Other regulated entertainment; Making music (Indoor & Outdoor)
Monday-Sunday: 11:00 - 23:00

Provision of late night refreshment
Monday-Sunday: 23:00 - 00:00

Sale by retail of alcohol
Monday-Sunday: 11:00 - 00:00

Non standard timings:
Sale by retail of alcohol; Provision of live and recorded music
New Year's Eve 1100 - 00:00 New Year's Day

Summary of Representations

10. Two (2) representations (environmental protection - appendix 3, trading standards – appendix 4), have been received from the responsible authorities. The representation from environmental protection has asked for conditions to be placed on the licence which have yet to be agreed. Trading standards representations have been agreed with the applicant. Six (6) public representations have been received, with five (5) being accepted and one being rejected (appendices 5-9).
11. A summary of the current licensed hours against the proposed licensed hours is attached at appendix 10, together with a summary of the proposed and existing

conditions (appendix 11).

Community Impact

12. Any decision is unlikely to have any significant effect of the local community.

Equality duty

13. This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in section 1 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
14. Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.
15. There are not considered to be any equalities implications arising from this report.

Financial implications

16. There are unlikely to be any financial implications for the authority at this time.

Legal Implications

17. The licensing authority must have regard to the promotion of the four licensing objectives namely; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm in exercising its functions under the Licensing Act 2003. Further regard should be had to the statutory guidance under Section 182 of the Act and the council's own statement of licensing policy.
18. The options available to the licensing authority on considering this application under the Licensing Act 2003 are set out in section 1 of this report.
19. The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.
20. In this case it was summed up that: -

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.
21. Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions. It should be

noted that hearsay evidence is admissible in the context of making decisions on licensing matters.

22. This judgement is further supported in the case of *The Queen on the Application of Bristol Council v Bristol Magistrates' Court*, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

23. In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

Right of Appeal

20. There is a right of appeal to the Magistrates Court within 21 days of being notified in writing of the decision

Risk Management

21. There is little risk associated with the decision at this time as the legislation allows a right of appeal to the Magistrates Court within a period of 21 days of being notified of the decision in writing.

Consultees

22. All responsible authorities and members of the public living within Herefordshire.

Appendices

- Appendix 1 Application for a variation of a premises licence
- Appendix 2 Current premise licence
- Appendix 3 Environmental protection representation
- Appendix 4 Trading standards representation
- Appendix 5-9 Public representations
- Appendix 10 Summary of current licensed hours v proposed.
- Appendix 11 Summary of proposed and existing conditions

Background Papers

The Section 182 guidance and the council's statement of licensing policy.