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| Meeting: | Licensing sub-committee |
| Meeting date: | 5 July 2019 |
| Title of report: | Application for a variation of a premises licence in respect of 'Shooters Bar, Grafton House, Burgess Street, Leominster. HR6 8DE' – Licensing Act 2003. |
| Report by: | Licensing technical officer |

Classification

Open

Key Decision

This is not an executive decision.

Wards Affected

Leominster South

Purpose

To consider an application for a variation of a premises licence for in respect of Shooters Bar, Grafton House, Burgess Street, Leominster. HR6 8DE.

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
- The Herefordshire Council Statement of Licensing Policy 2015 - 2020.

Options

1. There are a number of options open to the sub-committee:
 - a) Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003,
 - b) Grant the licence subject to modified conditions to that of the operating schedule where the sub committee considers it appropriate for the promotion of the licensing objectives and add mandatory conditions set out in the Licensing Act 2003,
 - c) To exclude from the scope of the licence any of the licensable activities to which the application relates
 - d) To refuse to specify a person in the licence as the premise supervisor, or
 - e) To reject the application.

Reasons for Recommendations

2. Ensures compliance with the Licensing Act 2003.

Key Considerations

Licence Application

3. The application for a variation to a premises licence has received relevant representations and is brought before the sub committee for determination.
4. The details of the application are:

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|---------------------------------------|--|--|
| Applicant | Shooters Bar Ltd of Grafton House, Burgess Street, Leominster. HR6 8DE | |
| 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 May 2019 | 28 Days consultation ended 13 June 2019 |

Summary of Application

5. The application (appendix 1) requests to vary premise to include:

Live Music (Indoors)

Sunday – Wednesday 11:00 – 24:00

Thursday – Saturday 11:00 – 01:00

Recorded Music (Indoors)

Sunday – Wednesday 11:00 – 24:00

Thursday 11:00 – 02:00

Friday – Saturday 11:00 – 03:15

Non-Standard Timings: Christmas Eve, Boxing Day, New Year's Eve and Bank Holiday Sundays 11:00 – 03:15

Late Night Refreshment (Indoors)

Thursday 23:00 – 02:30

Friday – Saturday 23:00 – 03:45

Non Standard Timings: Christmas Eve, Boxing Day, New Year's Eve and Bank Holiday Sundays 23:00 – 03:45

Sale/Supply of Alcohol (consumption on and off the premises)

Sunday – Wednesday 10:00 – 24:00

Thursday 10:00 – 02:00

Friday – Saturday 10:00 – 03:30

Non Standard Timings: Christmas Eve, Boxing Day, New Year's Eve and Bank Holiday Sundays 10:00 – 03:30

Opening Hours

Sunday – Wednesday 10:00 – 00:30

Thursday 10:00 – 02:30

Friday – Saturday 10:00 – 04:00

Non Standard Timings: Christmas Eve, Boxing Day, New Year's Eve and Bank Holiday Sundays 10:00 – 04:00

Current Licence

6. A copy of the current licence is attached at Appendix 2. It authorises:

Indoor Sporting Events

Sunday - Thursday - 10:00 - 23:30

Friday - Saturday 10:00 - 02:00

Non-Standard Timings:

Bank Holiday Sunday 11:00 – 02:00

Recorded Music

Sunday - Thursday - 10:00 - 23:30

Friday - Saturday 10:00 – 03:15

Non-Standard Timings:

Christmas Eve until 02:30

Boxing Day, New Years Eve & Bank Holiday Sundays until 03:15

Live Music; Performance of Dance;

Sunday - Thursday - 11:00 - 23:30

Friday – Saturday 11:00 - 01:00

Non-Standard Timings

Bank Holiday Sunday 11:00 – 01:00

Supply/Sale of Alcohol

Sunday – Thursday - 10:00 - 23:00

Friday – Saturday 10:00 - 03:00

Non-Standard Timings:

Christmas Eve until 02:00

Boxing Day, New Years Eve & Bank Holiday Sundays until 03:00

Opening Hours:

Sunday – Thursday 10:00 - 23:30

Friday – Saturday 10:00 – 03:30

Non-Standard Timings:

Christmas Eve until 02:30

Boxing Day, New Years Eve & Bank Holiday Sundays until 03:30

Premises History

7. The premises was first licenced in 2005 and was known as Re-Rack.
8. On 30 March 2011 an application to grant a premises licence was received and the premises was re-named as Shooters Bar. The licence was granted on 28th June 2011.
9. On 5th November 2018 a transfer application was received to transfer the name of the licence holder to Shooters Bar Ltd. The licence was issued on 29th November 2018.
10. On 16th January 2019, an application was received to vary the premises supervisor (DPS) into the name of Jonathan Rudge. The licence was issued on 4th February 2019.

Summary of Representations

11. One (1) representation has been received from the responsible authorities (environmental health) which can be found at Appendix 3.
12. Two (2) further relevant representations have been received one from a member of the public (appendix 4) and one from the ward councillor (appendix 5). The representations made are relevant to prevention of public nuisance.

Community Impact

13. Any decision is unlikely to have any impact on the local community.

Equality duty

14. There are no equality issues in relation to the content of this report.
15. 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.

16. 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.

Financial implications

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

Legal Implications

18. As relevant representations have been received, the sub committee must determine this application in accordance with section 3.5.7 (e) of the Herefordshire Council constitution. The relevant representations are representations which relate to the likely effect of the grant of the application on the promotion of the licensing objectives. In determining the application, the sub committee must consider whether the granting of the variation would have the effect of promoting or damaging the licensing objectives.
19. The four licensing objectives are 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. The options available to the licensing authority are set out in section 1 of this report.
20. The sub committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.
21. 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.

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.

22. 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.
23. 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'.

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

Right of Appeal

25. Schedule 5 gives a right of appeal which states:

An appeal may be made within 21 days to the Magistrates Court by the police or any person who has made a relevant representation and also by the premises licence holder once notified of the licensing authority's decision.

Risk Management

27. 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

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

Appendices

Appendix 1 - Application Form
Appendix 2 - Current Licence
Appendix 3 - Representation from Environmental Health
Appendix 4 – Public representation
Appendix 5 – Local Ward Councillor representation

Background Papers

None.