

**Application for a variation of a premises licence in respect of 'Shooters Bar, Grafton House, Burgess Street, Leominster. HR6 8DE'  
– Licensing Act 2003.**

**Meeting: Licensing sub-committee**

**Meeting date: Friday 18 March 2022 at 14:00**

**Report by: Senior Licensing Technical Officer**

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

Leominster South

## **Purpose**

To consider an application for a variation for a premises licence in respect of Shooters Bar, Grafton House, Burgess Street, Leominster. HR6 8DE under the Licensing Act 2003

## **Recommendation(s)**

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:

- a) The steps that are appropriate to promote the licensing objectives,
- b) The representations (including supporting information) presented by all parties,
- c) The guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- d) The Herefordshire Council Statement of Licensing Policy 2020 – 2025.

## **Reasons for Recommendations**

Ensures compliance with the Licensing Act 2003

## Alternative 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 refuse the application

## Key considerations

### Licence Application

2. The application for the variation of a premises licence has received relevant representations and is therefore brought before the sub-committee for determination.
3. Herefordshire Council Statement of Licensing Policy 2020 to 2025 states “All representation must be ‘relevant’, for example they must be about the likely effect of the grant of the application”. This followed paragraph 8.57 in the s182 Guidance which uses the same wording
4. The details of the application are:

Applicant	Shooters Bar Ltd	
Agent	The Licensing Guys	
Type of application:  Grant	Date received:  26 January 2022  28 day consultation started:  27 January 2022	28 Days consultation ended:  23 February 2022

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### Summary of Application

5. The application (appendix 1) requests the variation of a premises licence to allow the following licensable activities, during the hours shown, as follows:

- Live Music extended until 01:00hrs Thursday to Saturday.
- Recorded Music extended to 02:00 Thursday & Sunday and 04:30hrs Friday & Saturday.
- Late Night Refreshment extended to 02:30hrs Sunday to Wednesday, 03:00 on Thursday and 04:45hrs Friday & Saturday.
- Sale of Alcohol to commence 09:00hrs every day to allow for occasional Darts and Snooker Tournaments.
- Sale of Alcohol extended to 02:00hrs Sunday to Wednesday, 02:30hrs on Thursday and 04:30hrs Friday & Saturday.
- Opening Hours of 09:00hrs to 02:30hrs Sunday to Wednesday, 03:00 on Thursday and 05:00hrs on Friday & Saturday
- All hours on Christmas Eve, Boxing Day, New Year's Eve and Bank Holiday Weekend Sundays as per the usual Friday & Saturday.
- The facility to screen occasional live sporting events outside standard hours

Under the Live Music Act 2012 (as amended), an alcohol licenced premises can have live and/or recorded music from 08:00 – 23:00 for up to 500 people, without the need for these activities to be on a premises licence.

### Current Licence

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 - 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 & Bank Holiday Sundays until 03:15

#### Live Music

Sunday – Wednesday 11:00 – 24:00

Thursday – Saturday 11:00 – 01:00

Non-Standard Timings:

Christmas Eve, Boxing Day, New Year's Eve & Bank Holiday Sundays until 03:15

#### 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

#### Late Night Refreshment

Thursday 23:00 – 02:30

Friday – Saturday 23:00 – 03:45

Non-Standard Timings:

Christmas Eve, Boxing Day, New Year's Eve & Bank Holiday Sundays until 03:45

#### Sale/Supply of Alcohol

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 & Bank Holiday Sundays until 03:30

### **Summary of Representations**

6. One (1) representation has been received from one of the responsible authorities – Environmental Health and can be found at Appendix 3
7. Correspondence between the applicant's agent and the Environmental Health Officer in regards to the representation can be found at Appendix 4.
8. Four (4) relevant representations have been received from members of the public that the licensing authority have accepted as being relevant. (Appendix 5).

### **Premises History**

9. The premises was first licenced in 2005 and was known as Re-Rack.
10. On 30<sup>th</sup> 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 28<sup>th</sup> June 2011.

11. On 5<sup>th</sup> November 2018 a transfer application was received to transfer the name of the licence holder to Shooters Bar Ltd. The licence was issued on 29<sup>th</sup> November 2018.
12. On 16<sup>th</sup> January 2019, an application was received to vary the premises supervisor (DPS) into the name of Jonathan Rudge. The licence was issued on 4<sup>th</sup> February 2019.
13. On 15<sup>th</sup> May 2019, an application was received to vary the premises licence to increase the licensable activity timings. The application received relevant representations and therefore the matter was decided at licensing sub-committee on 5 July 2019 where the decision was to grant the variation with additional conditions as agreed with Environmental Health.

## **Community impact**

14. Any decision may have an impact on the local community.

## **Environmental Impact**

15. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal environmental impacts for the council, as licensing authority.

## **Equality duty**

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. There are no equality issues in relation to the content of this report.
  18. 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.
  19. 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.

## **Resource implications**

20. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal resource implications for the council, as licensing authority.

## **Financial implications**

21. There are unlikely to be any financial implications for the council, as licensing authority at this time.

## **Legal implications**

22. As relevant representations have been received, the sub committee must determine the application under Section 3.5.7 (c) of the Herefordshire Council constitution. The representations must relate to the licensing objectives and the sub committee must determine the likely effect of the grant of the premises licences on the promotion of the licensing objectives.
23. 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. The options available to the licensing authority are set out in section 1 of this report.
24. 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.
25. 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: -
26. 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.
27. 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.
28. 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'.*

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

## **Right of Appeal**

30. Schedule 5 of the Licensing Act 2003 gives a right of appeal which states:  
Decision to grant premises licence or impose conditions etc.
- (1) This paragraph applies where a licensing authority grants a premises licence under section 18.
  - (2) The holder of the licence may appeal against any decision—
    - (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
    - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).
  - (3) Where a person who made relevant representations in relation to the application desires to contend—
    - (a) that the licence ought not to have been granted, or
    - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section, he may appeal against the decision.
  - (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 18(6).
31. Appeals should be made to the Magistrates Court and must be made within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against

## **Risk management**

32. 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**

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

## **Appendices**

Appendix 1 - Application Form

Appendix 2 – Current Premises Licence

Appendix 3 – Environmental Health Representation

Appendix 4 – Correspondence between applicant's agent and Environmental Health

Appendix 5 – Public representations

## **Background papers**

None Identified

**Please include a glossary of terms, abbreviations and acronyms used in this report.**