



## **LICENSING ACT 2003 – APPLICATION TO VARY A PREMISES LICENCE (REF: 23/00672/LAPRE)**

### **Report of: Executive Director - Place**

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<b>Report to:</b>	<b>Licensing Sub Committee - Report for decision</b>
<b>Meeting date:</b>	<b>13 November 2023</b>
<b>Ward(s):</b>	
<b>Key Decision:</b>	<b>No</b>
<b>Appendix 1:</b>	<b>Current Premises Licence</b>
<b>Appendix 2:</b>	<b>Premises Licence Full Variation Application Form</b>
<b>Appendix 3 - 24:</b>	<b>Other Party Representations</b>
<b>Appendix 25:</b>	<b>Responsible Authority Representation</b>
<b>Appendix 26:</b>	<b>Extracts from the Hart District Council Joint Statement of Licensing Policy</b>
<b>Appendix 27</b>	<b>Extracts from the Licensing Act 2003 Section 182 Guidance</b>
<b>Background Papers</b>	<b>The Licensing Act 2003 Hart District Council – Statement of Licensing Policy Guidance issued under section 182 of the Licensing Act 2003</b>

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#### **Recommendation to Licensing Sub Committee:**

**It is recommended the sub-committee consider the application on its own merits. Members must consider both the evidence provided within the report papers and of parties involved at the hearing. Members must have regard to the council's statement of licensing policy and the statutory guidance issued under section 182 of the Licensing Act 2003, then determine the application taking the steps it considers appropriate to promote the licensing objectives.**

**Members must determine the application in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.**

## 1 Executive Summary

- 1.1 It is for members of the Licensing Sub-Committee to determine the application and consider the steps it considers appropriate to promote the licensing objectives. The options available to members are contained under section s18(4) of the Licensing Act 2003 which are shown at paragraph 5.3.
- 1.2 When determined, the licensing authority must notify that decision including its reasons for the decision in a notice to:
- a) The applicant
  - b) Any person who has made relevant representations, and
  - c) The chief officer of Police for the area in which the premises is situated.
- 1.3 If granting the application, the notice must specify the time when the variation in question takes effect.
- 1.4 The decision made by the sub-committee is appealable to the Magistrates Court within 21 days of all parties being notified of the licensing authority decision.

## 2 The Proposal

- 2.1 The Wyvern is a Public House which operates under the premises licence attached at Appendix 1. A full variation to the premises licence was submitted on September 2023 by TLT Solicitors on behalf of Greene King Brewing & Retailing Ltd. The application was processed in accordance with the regulations advertised accordingly with public notices displayed at the premises, on the council's website and in a local newspaper on 27<sup>th</sup> September 2023.
- 2.2 The application form can be seen at Appendix 2.
- 2.3 The application seeks to extend terminal hours for licensable activities and extend the opening hours by one hour on Thursdays to Saturdays (from 01:00 to 02:00). The full extent of the proposed changes is shown in the box below.
- 2.4 The table below shows the proposed licensable activities (with the current times in shown brackets):

### **Opening Hours**

Sunday – Wednesday 10:00 – 01:00 (*from 00:30*)

Thursday – Saturday 10:00 – 02:00 (*from 09:00 – 01:00*)

### **Live Music**

All days 10:00 – 00:00 (*from 23:00*)

### **Recorded Music**

All days 10:00 – 01:00 (*from 23:00*)

**Late Night Refreshment**

Sunday – Wednesday 23:00 – 00:00 (*from 23:30*)

Thursday – Saturday 23:00 – 01:00 (*from 00:00*)

**Sale of Alcohol**

Sunday – Wednesday 10:00 – 00:00 (*from 23:30*)

Thursday – Saturday 10:00 – 01:00 (*from 00:00*)

2.5 The application also seeks to remove these two conditions from Annex 3 of the licence;

- Closure of windows and doors during regulated entertainment (except for access and egress)
- No amplified loud noise or music to take place outside the main building after 23:00 hours.

**3 Key issues for consideration**

3.1 The Wyvern is a large public house situated in a residential area of Church Crookham. The pub sits on a busy junction between Gally Hill Road and Aldershot Road, both housing many residential premises. The Wyvern has a substantial car park and a garden area.

3.2 The applicant has not proposed other measures within the application to promote the licensing objectives within the operating schedule. Members are therefore considering the application based on existing licence conditions.

**4 REPRESENTATIONS**

4.1 Premises licence variation applications are subject to a statutory 28-day consultation period where representations can be submitted (in support or against proposed changes) which are relevant to the licensing objectives. A representation is “relevant” if *it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.*

The licensing objectives are:

- Public safety,
- The protection of children from harm,
- The prevention of crime and disorder, and
- The prevention of public nuisance

4.2 During the consultation period, twenty two representations were received from other parties (local residents). These representations are attached in full at Appendices 3-24. The representations were provided to the applicant’s agent.

At the time of drafting this report, no formal mediation had taken place or any concessions offered by the applicant after receiving the representations. Any further developments will be provided verbally at the hearing.

- 4.3 Representations made by other parties (appendices 3-24) raise concerns relating to the 'prevention of public nuisance' licensing objective citing proposed later times for musical entertainments events, and later leaving times will negatively impact the lives of persons living in the immediate area. These also relate to the 'Public Safety' licensing objective with concerns raised about overspill parking of vehicles by customers on pathways when the car park is full.
- 4.4 Some representations refer to the Council's Statement of Licensing Policy which states *'Licensing Authorities aim to balance the protection of the amenity of the local population with the expectations and ability of local businesses to operate in an environment that is attractive and sustainable for their business and the Policy aims to minimise the impacts of licensable activities on residents, visitors, stakeholders and the environment'*.
- 4.5 One representation was received from a Responsible Authority. This representation came from the Council's Environmental Health Officer (see Appendix 25). This representation raised concerns relating to the impact of proposed later hours on residents. The EHO also expressed concerns about the proposed removal of conditions from the current premises licence and suggests should this application be granted further conditions be considered to promote this objective.

## **5 Options Analysis**

- 5.1 In carrying out its licensing functions, a licensing authority must have regard to its 'Statement of Licensing Policy' and the guidance issued under section 182 of the Act. Relevant extracts of both documents are attached as appendices 26 and 27. Members should note this does not preclude them from considering the remainder of the guidance and policy.
- 5.2 The sub-committee must take the steps it considers appropriate to promote the licensing objectives.
- 5.3 After considering the above matters and evidence, the options available to the committee are to determine the review application as contained under section 18 (4) of the LA2003 which are as follows:

*"(4) The steps are—*

*(a) to grant the licence subject to—*

*(i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and*

*(ii) any condition which must under section 19, 20 or 21 be included in the licence;*

*(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;*

*(c) to refuse to specify a person in the licence as the premises supervisor;*

*(d) to reject the application.*

*(5) For the purposes of subsection (4)(a)(i) the conditions mentioned in subsection (2)(a) are modified if any of them is altered or omitted or any new condition is added."*

5.4 When determined, section 23 of the Licensing Act 2003 requires the following steps to be taken:

*"23 Grant or rejection of application*

*(1) Where an application is granted under section 18, the relevant licensing authority must forthwith—*

*(a) give a notice to that effect to—*

*(i) the applicant,*

*(ii) any person who made relevant representations in respect of the application, and*

*(iii) the chief officer of police for the police area (or each police area) in which the premises are situated, and*

*(b) issue the applicant with the licence and a summary of it.*

*(2) Where relevant representations were made in respect of the application, the notice under subsection (1)(a) must state the authority's reasons for its decision as to the steps (if any) to take under section 18(3)(b).*

*(3) Where an application is rejected under section 18, the relevant licensing authority must forthwith give a notice to that effect, stating its reasons for the decision, to—*

*(a) the applicant,*

*(b) any person who made relevant representations in respect of the application, and*

*(c) the chief officer of police for the police area (or each police area) in which the premises are situated."*

5.5 An appeal against the decision may be made to the Magistrates Court within 21 days from the date of receipt, of all parties being notified of the Local Authority's decision.

5.6 When making a decision regarding this application, members must focus on licensing related matters only and the measures proposed within the variation. Members are not entitled to consider existing licence permissions. The sub-committee can only determine matters relating to licensable activities that are within the control of the licence holder.

- 5.7 Members are required to take the steps they consider appropriate to promote the particular licensing objective that has given rise to the specific representations and avoid straying into undisputed areas. The sub-committee must set out reasons for their decision within the decision notice.

## **Corporate implications**

### **6 Legal**

- 6.1 The decision made by this sub-committee is subject to appeal rights to the Magistrates Court. Appeal rights must be included within the decision notice.
- 6.2 Where a decision is made that is contrary to the statement of Licensing Policy or is contrary to statutory guidance members must clearly state their grounds for departing from those documents within the decision notice.
- 6.3 The duty to take appropriate steps to promote the licensing objectives are referred to throughout this report.

### **7 Financial**

- 7.1 There are no financial implications arising from this report.

### **8 Risk management**

- 8.1 A risk assessment has been completed in accordance with the council's risk management process and has identified no significant (Red or Amber) residual risks that cannot be fully minimised by existing or planned controls or additional procedures
- 8.2 Members must consider the risks identified by the applicant and other parties within their written representations and stated orally at the hearing in respect of the impact on the promotion of the relevant licensing objectives that may occur as a result of the matters confined to the application.

### **9 Equalities**

- 9.1 Under the Human Rights Act 1998, the sub-committee needs to consider a balance between the rights of the applicant/licensee and any parties making representations when making their decision. The sub-committee has a duty under section 17 of the Crime and Disorder Act 1998 when making its decision to prevent crime and disorder in the district.

### **10 Consultation and communication**

- 10.1 This application was subject to a statutory consultation period and was advertised in accordance with the Licensing Act 2003 Regulations.

### **11 Climate change**

- 11.1 There are no climate change implications arising from this report.

**12 HR**

12.1 There are no HR issues arising from this report.

**13 Any Other Implications**

13.1 The duties to take steps appropriate to promote the licensing objectives are referred to throughout this report.

**14 Conclusion**

14.1 The sub-committee must consider the application on its own individual merits, taking into account all relevant matters and determine the application by taking the steps it considers appropriate to promote the licensing objectives. The options available to the committee are detailed within paragraph 5.3 of this report.

**15**

**Summary and reason for the decision** – to be determined

**16**

**The options considered and rejected** – to be determined

<p><b>Date: 13 November 2023</b> <b>Decision taken by: Licensing Sub Committee</b></p>
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<b>Lead officer</b>	Tom Payne, Head of Environmental and Community Services
<b>Report author</b>	Deborah Lazenby, Licensing Officer
<b>Version</b>	FINAL
<b>Dated</b>	13 November 2023
<b>Status</b>	Closed
<b>Confidentiality</b>	It is considered that information contained within this report and appendices contain exempt information under the meaning of Schedule 12A of the Local Government Act 1972, as amended, and therefore cannot be made public.