



<u>Committee and Date</u>	<u>Item</u>
Licensing Act Sub-Committee	3
Wednesday 31 <sup>st</sup> July 2019	Public

## LICENSING ACT 2003

### APPLICATION FOR A VARIATION OF A PREMISES LICENCE

**Responsible Officer** Ross O'Neil, Public Protection Officer (Specialist)

e-mail: [licensing@shropshire.gov.uk](mailto:licensing@shropshire.gov.uk)

Tel: 0345 6789026

#### 1. Summary

Shropshire Council being the authorised licensing authority for:

- The Boars Head, Willow Street, Oswestry, SY11 1AF.

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 2019 - 2024.

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 2019 - 2024, 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 at The Boars Head, Willow Street, Oswestry, SY11 1AF.

### **6. Background**

- 6.1 Marston's PLC have made an application for a variation of the premises licence. Marston's PLC are the premises licence holder and the Designated Premises Supervisor is Jamie Byron.
- 6.2 The Boars Head has had its current premises licence since November 2005. The premises is located in Oswestry town centre on Willow Street. The premise is surrounded by a mix of residential and other commercial premises.
- 6.3 The existing Premises Licence permits the following:

#### **Opening hours**

Monday to Saturday 10:00 - 03:30

Sunday 10:00 – 01:00

**Non Standard Timings**

End time on:- Fri/Sat/Sun/Mon on Bank Holiday wends, Xmas Eve and Boxing Day - 03.30. End time on New Years Eve is 03.30 on 2 Jan.

**Supply of Alcohol (on and off premises)**

Supply of Alcohol

Monday to Saturday 10:00 - 03:00

Sunday 10:00 - 01:00

**Non Standard Timings**

End time on:- Fri/Sat/Sun/Mon on Bank Holiday wends, Xmas Eve and Boxing Day - 03.00. End time on New Years Eve is 03.00 on 2 Jan.

**Performances of Dance (Both)**

Monday to Saturday 10:00 - 03:00

Sunday 10:00 - 01:00

**Non Standard Timings**

End time on:- Fri/Sat/Sun/Mon on Bank Holiday wends, Xmas Eve and Boxing Day - 03.00. End time on New Years Eve is 03.00 on 2 Jan.

**Films (Indoors)**

Monday to Saturday 10:00 - 03:00

Sunday 10:00 - 01:00

**Non Standard Timings**

End time on:- Fri/Sat/Sun/Mon on Bank Holiday wends, Xmas Eve and Boxing Day - 03.00. End time on New Years Eve is 03.00 on 2 Jan.

**Late Night Refreshment (Both)**

Monday to Saturday 23:00 - 03:00

Sunday 23:00 - 01:00

**Non Standard Timings**

End time on:- Fri/Sat/Sun/Mon on Bank Holiday wends, Xmas Eve and Boxing Day - 03.00. End time on New Years Eve and New Years Day is 05.00 on the following day.

**Live Music (Both)**

Monday to Saturday 10:00 - 03:00

Sunday 10:00 - 01:00

**Non Standard Timings**

End time on:- Fri/Sat/Sun/Mon on Bank Holiday wends, Xmas Eve and Boxing Day - 03.00. End time on New Years Eve is 03.00 on 2 Jan.

**Recorded Music (Both)**

Monday to Saturday 10:00 - 03:00

Sunday 10:00 - 01:00

**Non Standard Timings**

End time on:- Fri/Sat/Sun/Mon on Bank Holiday wends, Xmas Eve and Boxing Day - 03.00. End time on New Years Eve is 03.00 on 2 Jan.

6.4 The variation application seeks to amend the following:

**Opening hours**

Monday to Thursday	10:00 – 03:30
Friday and Saturday	10:00 – 04:30
Sunday	10:00 – 01:30

**Non Standard Timings**

Friday/ Saturday/ Sunday/ Monday on Bank Holiday weekends, Christmas Eve and Boxing Day – 04:30 hours. End time on New Year's Eve is 04:00 hours on 2<sup>nd</sup> January.

Additionally in respect of Late Night Refreshments on New Year's Eve and New Year's Day to 05:00 hours on the following. .

**Supply of Alcohol (on and off premises)**

Monday to Thursday	10:00 – 03:00
Friday and Saturday	10:00 – 04:00
Sunday	10:00 – 01:00

**Non Standard Timings**

Friday/ Saturday/ Sunday/ Monday on Bank Holiday weekends, Christmas Eve and Boxing Day – 04:00 hours. End time on New Year's Eve is 04:00 hours on 2<sup>nd</sup> January.

On commencement of British Summertime an extra hour shall be permitted.

**Films (Indoors)**

Monday to Thursday	10:00 – 03:00
Friday and Saturday	10:00 – 04:00
Sunday	10:00 – 01:00

**Non Standard Timings**

Friday/ Saturday/ Sunday/ Monday on Bank Holiday weekends, Christmas Eve and Boxing Day – 04:00 hours. End time on New Year's Eve is 04:00 hours on 2<sup>nd</sup> January.

On commencement of British Summertime an extra hour shall be permitted.

**Live Music (Indoors and outdoors)**

Monday to Thursday	10:00 – 03:00
Friday and Saturday	10:00 – 04:00
Sunday	10:00 – 01:00

**Non Standard Timings**

Friday/ Saturday/ Sunday/ Monday on Bank Holiday weekends, Christmas Eve and Boxing Day – 04:00 hours. End time on New Year's Eve is 04:00 hours on 2<sup>nd</sup> January.

On commencement of British Summertime an extra hour shall be permitted.

**Recorded Music (Indoors and outdoors)**

Monday to Thursday	10:00 – 03:00
Friday and Saturday	10:00 – 04:00
Sunday	10:00 – 01:00

Non Standard Timings

Friday/ Saturday/ Sunday/ Monday on Bank Holiday weekends, Christmas Eve and Boxing Day – 04:00 hours. End time on New Year's Eve is 04:00 hours on 2<sup>nd</sup> January.

On commencement of British Summertime an extra hour shall be permitted.

**Performance of Dance (Indoors and outdoors)**

Monday to Thursday	10:00 – 03:00
Friday and Saturday	10:00 – 04:00
Sunday	10:00 – 01:00

Non Standard Timings

Friday/ Saturday/ Sunday/ Monday on Bank Holiday weekends, Christmas Eve and Boxing Day – 04:00 hours. End time on New Year's Eve is 04:00 hours on 2<sup>nd</sup> January.

On commencement of British Summertime an extra hour shall be permitted.

**Late Night Refreshment (Indoors and outdoors)**

Monday to Thursday	23:00 – 03:00
Friday and Saturday	23:00 – 04:00
Sunday	23:00 – 01:00

Non Standard Timings

Friday/ Saturday/ Sunday/ Monday on Bank Holiday weekends, Christmas Eve and Boxing Day – 04:00 hours. End time on New Year's Eve is 05:00 on the following day.

On commencement of British Summertime an extra hour shall be permitted.

- 6.5 During the consultation period representation was submitted by Environmental Health in relation to the current conditions in Annex 2 of the licence.

Following a site visit the following conditions were agreed and Environmental Health removed the original representation;

## **General**

- Condition 1 to be deleted as it prohibits entry at an earlier hour which has no impact on the four licensing objectives.
- Condition 2 should be deleted as it is a preamble condition to those beneath it some of which are to change.
- Condition 3 should be deleted as it the occupancy is adequately covered off by condition 7 under Prevent of Crime and Disorder.
- Condition 6 should be rewritten so as to stipulate as follows: “No live music to be undertaken in the rear yard or covered yard after 23:00 hours. Recorded music shall be permitted in the rear yard and covered yard.”

## **Public Nuisance**

- Condition 1 to be removed as provision of notices is covered in condition 4
- Amendment of condition 3 to read as follows: “All external doors and windows shall be kept closed after 23:00 hours other than for access and egress to all rooms when amplified music or speech are taking place”.
- Removal of conditions 5 making reference to fireworks and pyrotechnics.

## **Public Safety**

- Conditions 1 and 2 to be deleted being conditions tendered in 2005 and which are now without merit or enforceability.

## **7. Representations received (Responsible Authorities)**

- 7.1 Representations was received off Environmental Health and withdrawn after agreeing amendments to Annex 2 as above (6.5). Representation has been received of the Police and Public Health, none of these have been withdrawn. These representations mainly relate to the prevention of crime and disorder and Public Safety due to the extra opening hours applied for.

## **8. Representations received (Other Persons)**

- 8.1 Representations has been received from one ‘other person’, in objection to the application. The objectors primary concerns is in respect of the Prevention of Public Nuisance and crime and disorder due to the opening hours applied for and police resources. This representation has not 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 and conditions as detailed in paragraph 6.4 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 2019 - 2024.  
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 (19/00914/LVDPS)

### **Cabinet Member (Portfolio Holder)**

Cllr G Butler

**Local Member**

Cllr P Milner

**Appendices**

Appendix A – Location Plan

Appendix B – Current Licence