



Licensing (Liquor and Gambling) Panel 11 September 2012

Application for Variation of the Premises Licence at The Benefield Wheatsheaf, Upper Main Street, Upper Benefield

Purpose of report

To consider an application to vary the Premises Licence at The Benefield Wheatsheaf, Upper Main Street, Upper Benefield

Attachment(s)

Appendix 1 - Application Form

Appendix 2 - Map of Area

Appendix 3 - Representations

Appendix 4 – Current licence

Appendix 5 - Conditions with comments from Environmental Protection

1.0 Summary

1.1 An application to vary the premises licence at the Benefield Wheatsheaf was received on 18 July 2012. The appropriate Blue notice was displayed on the premises during the required consultation period.

2.0 Application details

Those matters for which a variation to the premises licence is sought are listed below with the relevant timings, (current timings and conditions are in blue):-

Live Music

12:00 to 02:00 Indoors – [same as existing](#)

Recorded Music

12:00 to 02:00 indoors and outdoors – recorded music outdoors to be restricted to the soundproofed dance floor area in the marquee. – [currently indoors only](#)

Provision of facilities for dancing

12:00 to 02:00 indoors and outdoors – [same as existing](#)

Late night refreshment

23:00 – 05:00 outdoor late night refreshment to cease at 23:30 – [currently indoors and outdoors](#)

Supply of alcohol

06:00 – 06:00 indoors and outdoors – [same as existing](#)

Variation of conditions

Condition 1 to be varied to allow amplified recorded music to be played outdoors within the confines of the marquee soundproofed dance floor area.

[The playing of live music, karaoke or amplified music shall be restricted to the main building only.](#)

Condition 2 to be varied to remove the requirement for the double door lobby system
[A double door lobby system shall be installed at all access points to the marquee. Self closing mechanisms shall be installed on all the doors. All doors to the marquee shall remain closed at all times except to allow access.](#)

Condition 5 to be removed

The noise climate at the surrounding residential properties shall be protected such that when measured one metre from the façade of any residential property the A weighted equivalent continuous noise level (LAeq) emanating from amplified music from the Benefield Wheatsheaf shall not exceed background levels when measured over any 5 minute period (LAeq, 5min). No third octave band when measured at one metre from the façade of any residential property shall be more than 5dB greater than its immediate neighbour.

Condition 10 to be varied to allow 40 events per year.

That no more than 20 outdoor events take place each year between 23:00 and 02:00.

3.0 Consultations

The following Consultations have been undertaken:

Child Protection	No representation
Fire	No representation
Police	No representation
Trading Standards	No representation
Revenues and Customs	No representation
Health Authority	No representation
Town/Parish Council	No representation
Environmental Protection	Representation
Environmental Health	No representation
Licensing	No representation
Planning	Representation
Public	Three representations

- 3.1 There were three representations received from the public, they have been analysed and a summary is shown under the relevant licensing objectives. One of these representations included a DVD, which will be played at the hearing. These representations are very detailed and, as such, only the main points relating to public nuisance have been specified below.

Public Nuisance

The night time discos are noisy. There is a history of non compliance. Since May 2012 noise from events has increased, both the Licensing Enforcement Officer and Environmental Protection Officer at different events have found the noise to be a problem. They are unlikely to comply based on history of non compliance. Noise continues to be a nuisance from music and clients shouting in the marquee. A doubling of the outdoor events will increase the level of noise nuisance

See Appendix 3 for full representations.

- 3.2 A representation was received from Environmental Protection in respect of public nuisance. These representations are again very detailed, and a set of conditions have been agreed following discussions with applicant. If these conditions were agreed in their entirety by the panel, Environmental Protection would no longer have a representation. However, if the panel did not agree to these revised conditions, the representation from Environmental Protection would stand. For members information appendix 5 contains a set of conditions that would be on the licence if the Environmental Protection conditions were agreed.
- 3.3 A representation was received from the Planning Authority in respect of public nuisance and specifically relates to the variation to conditions 1 and 2, as they feel the alterations as suggested would not safeguard the residential amenities of neighbouring occupiers.

4.0 Determination

4.1 The Panel must carry out its functions to promote the licensing objectives having regard to:

- Licensing Policy
- S182 Guidance

4.2 The Act states that following a hearing the Panel may take the following actions if they deem them necessary to promote the licensing objectives:

- Grant the variation subject to operating schedule and mandatory conditions only
- Grant the full variation subject to further conditions necessary for the promotion of the licensing objectives
- Grant elements variation subject to further conditions necessary for the promotion of the licensing objectives
- Refuse elements of the variation application
- Refuse the whole of the variation application

5.0 Policy Considerations

This section highlights the elements of the Licensing Policy that are most relevant in respect of this application. This is not exhaustive and the policy should be given full consideration prior to making decisions in respect of applications:-

- 2.13 This Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering, fouling, noise and street crime.
- 2.14 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions relevant to the operating plan will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public (e.g. Health and Safety at Work and Fire Safety legislation).
- 5.1 Consideration will always be given to the individual merits of an application in line with the four licensing objectives and any relevant representations. This authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is appropriate to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.
- 5.2 However, when issuing a licence with hours beyond 2300 hours, higher standards may be expected to be included in Operating Schedules to address the licensing objectives especially in premises which are situated near to residential properties.
- 9.1 Licence Conditions - this Authority will therefore avoid the general application of standardised conditions to licences and certificates.

6.0 Section 182 Guidance Considerations

This section highlights the elements of section 182 Licensing Guidance that are most relevant in respect of this application. This is not exhaustive and guidance should be considered fully prior to making decisions with respect to applications:-

6.1 Committee Consideration

- Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case (para 1.16).
- As a matter of practice, licensing authorities should seek to focus the hearing on the steps needed to promote the particular licensing objective which has given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation (para 9.33).

6.2 Conditions

- The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both (para 10.4).
- The 2003 Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. The conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. (para 10.14).

Hours of trading

- Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the Licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested. (para 10.21).

7.0 Equality and Diversity Implications

7.1 There are no equality and diversity implications

8.0 Financial Implications

8.1 There are no financial implications at this stage.

9.0 Staff

9.1 There are no staffing implications

10.0 Risk Management

10.1 There are no material risks

11.0 Corporate Outcomes

11.1 The following corporate outcomes would be delivered

- Good quality of life
- Effective partnership working
- Good reputation
- Strong community leadership
- Knowledge of our customers and communities

12.0 Invitation to determine

12.1 The panel is asked to consider the information detailed above and determine the variation application.

Legal	Power: Licensing Act 2003				
	Other considerations: Section 182 Guidance, April 2012; Statement of Licensing Policy				
Background Papers: None					
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Date: 20 August 2012					
CFO		MO		CX	