



## Licensing (Liquor and Gambling) Panel

### Application for Variation of the Premises Licence at Joe's Bar, 98 High Street, Higham Ferrers, NN10 8ET

#### Purpose of report

Application to vary the Premises Licence at Joe's Bar, 98 High Street, Higham Ferrers, NN10 8ET.

#### Attachment(s)

Appendix 1 - Application Form  
 Appendix 2 - Map of Area  
 Appendix 3 - Representations  
 Appendix 4 – Current licence

#### 1.0 Summary

1.1 An application to vary the premises licence at Joe's Bar (formerly JJs and the Old Swan) was received on 15 November 2012 (Appendix 1). The appropriate Blue notice was displayed on the premises during the required consultation period.

#### 2.0 Application details

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

##### Live Music

11:00 to 23:45 Indoors – (11:00 – 23:00)

##### Recorded Music

11:00 to 00:30 Indoors – (11:00 – 00:30)

##### Variation of conditions

Condition 2 to be varied to remove the requirement that amplified music should cease at 23:00 hours.

#### 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	No representation
Environmental Health	No representation
Licensing	No representation
Planning	No representation
Public	Six representations

3.1 There were six representations received from the public, they have been analysed and a summary is shown under the relevant licensing objectives.

## **Public Nuisance**

- 3.2 All of the objection letters received (Appendix 3) are from nearby residents and refer to the noise from loud live and recorded music. Some letters refer to music being played after the permitted terminal hour of 23:00hrs. On the occasions this has happened the licensee has been using a temporary event notice to cover the event.

## **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 of the 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**

- 5.1 This section highlights the elements of the licensing policy that are most relevant with respect to this application. This is not exhaustive and the policy should be considered fully prior to making decisions with respect to 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 23:00hrs, 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**

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

### **6.2 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 1.17).
- 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. 3).

### **6.3 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 10.2).
- 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 10.10).

### **6.4 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 10.12).

## **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.

<b>Legal</b>	Power: Licensing Act 2003				
	Other considerations: Section 182 Guidance, April 2012; Statement of Licensing Policy				
<b>Background Papers:</b> None					
<b>Person Originating Report:</b> Tom Morrissey Licensing Enforcement Officer tmorrissey@east-northamptonshire.gov.uk 01832 742241					
<b>Date</b> 14 December 2012					
<b>CFO</b>		<b>MO</b>		<b>CX</b>	

(Committee Report Normal Rev. 22)