



Licensing (Liquor and Gambling) Panel - 23 December 2010

Application to vary Premises Licence for The Wheatsheaf Hotel High Street South Rushden

Summary

Application to vary the Premises Licence for The Wheatsheaf Hotel, High Street South, Rushden

Attachment(s)

- Appendix 1 - Application Form
- Appendix 2 - Map of Area
- Appendix 3 - Representations
- Appendix 4 - Police Representation agreed with applicant

1.0 Summary

- 1.1 An application was received from BJS Solutions Limited to vary the premises licence at The Wheatsheaf Hotel, 1 High Street South, Rushden NN10 0QU. The appropriate blue notice was displayed on the premises during the required consultation period.

2.0 Variations Requested

- 2.1 Those matters for which a variation is requested are listed below; times requested are shown, with current times in brackets.

Live Music (Indoors and Outdoors)

Sun to Wed 1100 hours to 0030 hours (1100 – 2330)

Thurs 1100 hours to 0230 hours (1100 – 2330)

Fri to Sat hours 1100 to 0330 hours (Fri to Sun only 1100 – 2330)

Non Standard Timings

Christmas Eve, Boxing Day, New Years Eve New Years Day 1100 hours to 0330 hours (Christmas Eve, Boxing Day, New Years Day 1100 -0030 New Years Eve 1100 - 0200 hours)

Christmas Day 1100 hours to 1430 hours and 1900 hours to 0330 hours

Bank Holiday weekends Fri/Sat/sun 1100 hours to 0330 hours

Recorded Music

Sun to Wed 1100 hours to 0030 hours (1900 – 2300)

Thurs 1100 hours to 0230 hours (1100 – 2330)

Fri to Sat hours 1100 to 0330 hours (Fri to Sun only 1100 – 2300)

Non Standard Timings

Christmas Eve, Boxing Day, New Years Eve New Years Day 1100 hours to 0330 hours (Christmas Eve, Boxing Day, New Years Day 1100 -0030 New Years Eve 1100 - 0200 hours)

Christmas Day 1100 hours to 1430 hours and 1900 hours to 0330 hours

Bank Holiday weekends Fri/Sat/sun 1100 hours to 0330 hours

Late Night Refreshment

Sun to Wed 2300 hours to 0030 hours

Thurs 2300 hours to 0230 hours

Fri/Sat 2300 hours to 0330 hours

Non Standard Timings

Christmas Eve, Boxing Day, New Years Eve, New Years Day, Bank Holiday

Weekends Fri/Sat/Sun 2300 hours – 0330 hours
Christmas Day 1100 hours to 1430 hours and 1900 hours to 0330 hours

Supply of Alcohol

Sun to Wed 1100 hours to 0030 hours (1100 – 2300)
Thurs 1100 hours to 0230 hours (1100 – 2300)
Fri to Sat 1100 hours to 0330 hours (1100 – 2330)

Non- standard timings

Christmas Eve, Boxing Day, New Years Eve New Years Day 1100 hours to 0330 hours (Christmas Eve, Boxing Day, New Years Day 1100 -0000 New Years Eve 1100 - 0200 hours)
Christmas Day 1100 hours to 1430 hours and 1900 hours to 0330 hours (1100 – 1400 and 1900 - 2300)
Bank Holiday weekends Fri/Sat/sun 1100 hours to 0330 hours (1100 – 0000)

Hours premises open to Public

Sun to Wed 1100 hours to 0030 hours (Sun to Thurs 1100 – 2330)
Thurs 1100 hours to 0230 hours (1100 – 2330)
Fri to Sat 1100 hours to 0330 hours (1100 – 0000)

Non Standard Timings

Christmas Eve, Boxing Day, New Years Eve, New Years Day, Bank Holiday
Weekends Fri/Sat/Sun 2300 hours – 0330 hours
Christmas Day 1100 hours to 1430 hours and 1900 hours to 0330 hours

3.0 Consultations

3.1 The following consultations have taken place

Child Protection	No representation
Fire	No representation
Trading Standards	No representation
Revenue and Customs	No representation
Environmental Protection	Representation but now resolved
Public	Representation
District Councillor	Representation
Rushden Town Council	Representation
Police	Representation withdrawn as conditions agreed

3.2 A letter was received from Rushden Town Council which includes as evidence letters from 14 nearby residents. It is included in Appendix 3 for your information. It has been analysed and a summary is shown under the relevant licensing objective below:

Prevention of Crime and Disorder

The representations from the residents refer to low level crime such as fly tipping and criminal damage to property. There are also allegations regarding drug taking and dealing in the area.

Prevention of Public Nuisance

The representation refers to noise from customers of the premises and loud music emanating from the premises both from music being played inside the premises and from noisy customers using the outside areas of the premises.

3.3 The representation from Environmental Protection has been agreed verbally by the applicant and now confirmed in writing. The agreed conditions will be included in the licence.

Prevention of Public Nuisance

The representation was concerned with public nuisance caused by music and other outdoor entertainment. The verbally agreed conditions included a reduction in the hours of operation and removal of outside entertainment. The full conditions are

shown at appendix 3.

3.4 The representation from the District Councillor deals with Public Nuisance and is concerned with noise from entertainment and also asks for a reduction in the hours of operation.

3.5 The representation from the Police has been agreed by the applicant and the conditions asked for by the police will be included in the licence. See Appendix 4.

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 it deems them necessary to promote the licensing objectives:

- Grant subject to operating schedule and mandatory conditions only
- Grant subject to further conditions necessary for the promotion of the licensing objectives
- Exclude a licensable activity
- Reject the 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 – 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 necessary, 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).
- 5.0 Licensing Hours – relates to higher standards being included within an operating schedule to address licensing objectives, the need to consider the adequacy of measures proposed to deal with nuisance and /or public disorder and demand stricter conditions with regard noise control near denser residential accommodation.
- 9.0 Licence Conditions - this Authority will therefore avoid the general application of standardised conditions to licences and certificates. However to ensure consistency, when it is necessary to apply conditions, the Authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn in particular circumstances to suit individual cases. (Pages 148 – 170 of section 182 Guidance).

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 1.15).
- 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 interested party 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 9.24).

6.3 **Control of Licensee**

- Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or in a smoking shelter, where and to the extent that these matters are within their control (para 1.26).

6.4 **Conditions**

- Under former licensing regimes, 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 Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardised conditions which ignore these individual aspects. It is important that conditions are proportionate and properly recognise significant differences between venues. For example, charities, community groups, voluntary groups, churches, schools and hospitals which host smaller events and festivals will not usually be pursuing these events commercially with a view to profit and will inevitably operate within limited resources (para 10.13).

6.5 **Opening Hours**

- In some town and city centre areas where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport, which may in turn lead to conflict, disorder and anti-social behaviour. In some circumstances, flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises (para 10.19).

- However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested (para 10.20).

7.0 Invitation to Determine

7.1 The Panel is asked to consider the information detailed above and determine whether to grant the licence.

Implications:	
Corporate Outcomes or Other Policy/Priority/Strategy	
Good Quality of Life	<input checked="" type="checkbox"/> Good Reputation <input checked="" type="checkbox"/>
Good Value for Money	<input type="checkbox"/> High Quality Service Delivery <input type="checkbox"/>
Effective Partnership Working	<input checked="" type="checkbox"/> Strong Community Leadership <input checked="" type="checkbox"/>
Effective Management	<input type="checkbox"/> Knowledge of our Customers and Communities <input checked="" type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours	<input type="checkbox"/>
Other:	<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval <input type="checkbox"/>	
Financial	There are no financial implications at this stage <input checked="" type="checkbox"/>
	There will be financial implications – see paragraph <input type="checkbox"/>
	There is provision within existing budget <input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>
	Decisions may have potential for income generation <input type="checkbox"/>
Risk Management	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - residual risk score - <input type="checkbox"/>
Staff	There are no additional staffing implications <input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph <input type="checkbox"/>
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>
Legal	Power: Licensing Act 2003
	Other considerations:
Background Papers: Section 182 Guidance October 2010	
Person Originating Report: Thomas Morrissey Licensing Enforcement Officer 01832 742241 tmorrissey@east-northamptonshire.gov.uk	
Date: 3 December 2010	
CFO	MO
	CX

(Committee Report Normal Rev. 21)