



## Licensing (Liquor and Gambling) Panel – 11 July 2011

### Application to vary the premises licence for The Shuckburgh Arms, Main Street, Soutwick

#### Purpose of report

Application to vary the premises licence for the Shuckburgh Arms, Main Street, Southwick, PE8 5BL

#### Attachment(s)

- Appendix 1 - Application Form
- Appendix 2 - Map of Area
- Appendix 3 - Representations
- Appendix 3A - Representation from Environmental Protection
- Appendix 4 - Representation in support of application
- Appendix 5 - Current premises licence

#### 1.0 Summary

- 1.1 An application to vary the premises licence for the Shuckburgh Arms Public House, Main Street, Southwick, PE8 5BL. The appropriate blue notice was displayed on the premises during the required consultation period.

#### 2.0 Request for a variation

- 2.1 Those matters for which a variation is requested are listed below; times requested are shown. Current times in brackets. The applicant has also asked that some conditions be removed from the licence. These conditions were attached to the licence by a licensing panel when the premises licence was issued on 22 April 2010. These conditions refer to playing of music outside and keeping windows and doors closed whilst regulated entertainment is taking place.

#### 2.2 Live Music

Mon 1200 hours to 2200 hours (1200 – 2300)  
 Wed 1200 hours to 2330 hours (1200 - 2300)  
 Thurs 1200 hours to 0000 hours (1200 – 2300)  
 Fri and Sat 1200hours to 0030 hours (1200 – 2300)  
 Sun 1200 hours to 2300 hours (1200 – 2200)

##### Non standard timings

New years Eve and day end at 0200 hours (NYE only 0200)  
 Christmas Eve and day end at 0200 hours (CE only 0200)  
 Bank holiday weekends Fri - Mon end 0200 hours (0000)

##### Recorded Music

Mon to Thur 0800 hours to 0000 hours (1200 – 2300)  
 Fri to Sat 0800 hours to 0130 hours (1200 – 2300)  
 Sun 0800 hours to 2300 hours (1200 – 2200)

##### Non standard timings

As for live music above

##### Performance of Dance

Fri to Sat 1200 hours to 2330 hours (1200 - 2300)  
 Sun 1200 hours to 2300 hours (1200 - 2200)

##### Non standard timings

Bank holiday weekends Fri to Mon end 0200 hours (1200 - 0100)

**Anything similar to live music/recorded music/dance**

Fri to Sat 1200 hours – 2330hours (1200 - 2300)

Sun 1200 hours to 2330 hours (1200 – 2200)

**Non standard timings**

Bank holiday weekends Fri to Mon end 0200 hours (1200 - 0000)

**Provision of facilities for dancing**

Fri to Sat 0800 hours to 2330 hours (0800 - 2300)

Sun 0800 hours to 2300 hours (1200 - 2200)

**Non standard timings**

Christmas Eve and day New Years Eve and day end 0200 hours (CE and NYE only end 0200)

Bank Holiday weekends Fri to Mon end 0200 hours (1200 - 0000)

**Provision of facilities for similar to dancing**

Wed to Thur 0800 hours to 2330 hours (0800 - 2300)

Fri to Sat 0800 hours to 0130 hours (0800 - 2300)

Sun 0800 hours to 2300 hours (1200 - 2200)

**Non standard timings**

Same as facilities for dancing above

**Late Night Refreshment**

Mon to Thur 2300 hours to 0130 hours (none currently)

Fri to Sat 2300 hours to 0200 hours (none currently)

Sun 2300 hours to 0000 hours (none currently)

**Non standard timings**

Same as facilities for dancing above (none currently)

**Supply of Alcohol**

Mon to Tues 1000 hours to 0000 hours (1000 – 2330)

Wed to Thur 1000 hours to 0100 hours (1000 - 2330)

Fri to Sat 0900 hours to 0200 hours (1000 – 2330)

Sun 0900 hours to 0000 hours (1000 – 2300)

**Non standard timings**

Christmas Eve and day New Years Eve and day end 0200 hours (CE and NYE only 1200 - 0200)

Bank Holiday weekends Fri to Mon end 0200 hours (1200 - 0000)

**Hours Open to the Public**

Mon to Wed 0700 hours to 0130 hours (0800 – 0030)

Thur 0700 hours to 0200 hours (0800 - 0030)

Fri to Sat 0700 hours to 0230 hours (0800 – 0030)

Sun 0700 hours to 0030 hours (0800 - 0030)

**Non standard timings**

Christmas Eve and Day and New Years Eve and day end 0300 hours (CE and NYE only end 0230)

Bank Holiday weekends Fri to Mon end 0300 hours (0130)

**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
Parish Council	No representation
Environmental Protection	Representation

Environmental Health	No representation
Public	7 representations
Police	No representation

3.2 The representations from the public have been analysed and a summary is shown under the relevant licensing objective. See appendix 3 for representations. The representation from Environmental Protection was agreed verbally with the applicant but he has failed to confirm that agreement in writing. This representation is shown at appendix 3A. One representation received from the public is in favour of the application. This is at appendix 4.

### 3.3 **Prevention of Public Nuisance**

The representations from the residents all refer to noise from customers of the premises and loud music emanating from the premises.

## 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 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).

### 6.4 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.

<b>Legal</b>	Power: Licensing Act 2003				
	Other considerations: Statutory Guidance issued under Section 182 Licensing Act 2003; Statement of Licensing Policy				
<b>Background Papers:</b> None					
<b>Person Originating Report:</b> Thomas Morrissey Licensing Enforcement Officer <a href="mailto:tmorrissey@east-northamptonshire.gov.uk">tmorrissey@east-northamptonshire.gov.uk</a> 01832 742241					
<b>Date:</b> 21 June 2011					
<b>CFO</b>		<b>MO</b>		<b>CX</b>	

(Committee Report Normal Rev. 22)