

APPLICATION FOR THE VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003



Cabinet member for Regulatory, Housing & Health

Date: 5 May 2022

Agenda Item:

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Key Decision? NO

Local Ward Whittington & Streethay

Members Cllr David Leytham, Cllr Harry Warburton, Cllr Alan White

**LICENSING AND
CONSENTS
APPEALS
COMMITTEE**

1. Executive Summary

- 1.1 An application for the variation of a premises licence, for Old Crown Wigginton, under the Licensing Act 2003 was received on the 8 March 2022 from John Gaunt & Partners on behalf of Marston's PLC (A copy of the application is attached at **Appendix A**).
- 1.2 The variation is primarily to license an external area of the premises and authorise sales of alcohol from an external servery until 22:00 hours. The applicant is also seeking to remove conditions carried over from previous legislation

2. Recommendations

- 2.1 Members are asked to determine the application to vary a premises licence in respect of the Old Crown, Wigginton having due regard to the Council's Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

3. Background

- 3.1 A premises licence is currently in force for the Old Crown Wigginton (copy attached at **Appendix B**).
- 3.2 A copy of the proposed plan is attached at **Appendix C**.
- 3.3 The application has been advertised in accordance with the provisions contained within the Licensing Act 2003 and Licensing Act 2003 Regulations, inviting representations from a Responsible Authority or any other person, for twenty-eight consecutive days starting on the day after the day on which the application was given to the Authority.
- 3.4 No representations were received from any Responsible Authority.
- 3.5 A representation has been received from an 'other person', objecting to the application on the grounds that the prevention of public nuisance objective would be undermined. This representation is attached at **Appendix D**

- 3.6 Where relevant representations are received, a hearing must be arranged for Members to determine the application.
- 3.7 Members may not refuse applications in whole or in part or attach conditions to licences (other than those proffered by applicants in their operating schedules), unless it is appropriate to do so in order to promote one or more of the four licensing objectives;
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 3.8 Conditions attached to licences and certificates must be tailored to the individual type, location 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 appropriate for the promotion of the licensing objectives in an individual case.
- 3.9 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives;
 - must be precise and enforceable;
 - must be unambiguous and clear in what they intend to achieve;
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - must be tailored to the individual type, location and characteristics of the premises and events concerned;
 - should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - should not replicate offences set out in the 2003 Act or other legislation;
 - should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not).
- 3.10 The licensing authority may decide:
- .To grant the Application subject to any condition which must under the Act be included in the licence and with or without additional conditions necessary to promote the Licensing Objectives
 - To grant the Application amending any of the Licensable Activities from the Scope of the Licence
 - To reject the application
- 3.11 The licensing authority should give its decision within 5 working days of the conclusion of the hearing and provide reasons to support it.

Alternative Options	1. An application for a variation under the Licensing Act 2003 has to be considered that is relevant has to be considered by the licensing authority where a valid application is received. The options open to the authority are set out in the report.
Consultation	1. Advertising new or variation applications is the responsibility of the applicant and is done by way of a blue notice displayed on the premises for

	<p>a period of 28 consecutive days and by placing a notice in a local newspaper circulating in the area within 10 days of the application being made. The application has been advertised in accordance with the statutory requirements.</p> <p>2. Recent applications are included in our weekly lists page on our website</p>
Financial Implications	<ol style="list-style-type: none"> 1. The fees for a premises licence are payable on application. They are not refundable should the application be refused. 2. If the application is refused, or granted with conditions, the applicant has the right of appeal to the Magistrates' Court against the decision. 3. Similarly a person who made relevant representations has a right of appeal against a decision to grant a licence, or the conditions imposed upon it.
Approved by Section 151 Officer	Yes
Legal Implications	<ol style="list-style-type: none"> 1. If the application is refused, or granted with conditions, the applicant has the right of appeal to the Magistrates' Court against the decision. 2. Similarly a person who made relevant representations has a right of appeal against a decision to grant a licence, or the conditions imposed upon it. 3. The committee will have Legal Advice at the meeting.
Approved by Monitoring Officer	Yes
Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> 1. Premises licensing contributes to enabling people, shaping place and developing prosperity.
Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> 1. Article 6 of the Human Rights Act 1998, states that in determination of a person's civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. 2. Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence. 3. Part II, Article 1 states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law and by the general principles on international law.
Crime & Safety Issues	<ol style="list-style-type: none"> 1. Staffordshire Police are a statutory consultee in relation to Licensing Act 2003 applications. 2. Under the Crime and Disorder Act 1998, particularly Section 17, local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent crime and disorder in their area. The Licensing Authority will have regard to the likely impact of licensing on related crime and disorder in the District, particularly when considering the location, impact, operation and management of licensable activities.
Environmental Impact	Potential for noise

GDPR / Privacy Impact Assessment	1. Disclosure of personal details of persons making representations can only be done where the circumstances justify such action.
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	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Legal challenge	Impact – Yellow Likelihood – Yellow Risk - Yellow	Committee Members are trained in how to conduct a hearing appropriately. Legal advice is provided through a qualified legal officer to advise their decision making	Impact – Yellow Likelihood – Yellow Risk - Yellow
B	Reputation	Impact – Green Likelihood – Green Risk - Green	Committee Members are trained in how to conduct a hearing appropriately. Legal advice is provided through a qualified legal officer to advise their decision making	Impact – Green Likelihood – Green Risk - Green
C				
D				
E				

	Background documents
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	Relevant web links Revised guidance under section 182 of the Licensing Act 2003 https://www.lichfielddc.gov.uk/downloads/file/1779/statement-of-licensing-policy-2021-2026 http://www.legislation.gov.uk/ukpga/2003/17/contents
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