

APPLICATION TO VARY A PREMISES LICENCE UNDER THE LICENSING ACT 2003

Councillor Angela Lax

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Key Decision? **NO**

Local Ward Members Armitage with Handsacre

Lichfield
district council
www.lichfielddc.gov.uk

**LICENSING AND
CONSENTS
APPEALS
COMMITTEE**

1. Executive Summary

- 1.1 To consider the application submitted to vary a premises licence in respect of the Ash Tree Inn, Armitage Road, Rugeley.

2. Recommendations

- 2.1 There are no recommendations

3. Background

- 3.1 An application to vary a premises licence under the Licensing Act 2003 was received on the 27th January 2020 from John Gaunt & Partners Licensing Solicitors on behalf of the premises licence holder Marston's PLC. A copy of the application is attached at Appendix A.
- 3.2 A plan is attached to the report at Appendix B.
- 3.3 The premises licence currently authorises:-
The provision of regulated entertainment (indoors) namely:- films, indoor sporting events, live music, recorded music and performance of dance, the sale of alcohol and the provision of late night refreshment Monday to Thursday 1000 hours to midnight, Friday & Saturday 1000 to 0100 hours and Sunday 1100 hours to midnight.
- 3.4 The proposed variation is to make changes to the interior of the premises and to include the outside area in relation to the sale of alcohol and late night refreshment. The licensable hours are not being amended.
- 3.5 No representations have been received from the Responsible Authorities.
- 3.6 Representations have been received from 'other persons', objecting to the application on the grounds that the Prevention of Public Nuisance and the protection of children from Harm licensing objectives would be undermined. These representations are attached at Appendix C.
- 3.7 Where relevant representations are received a hearing must be arranged for Members to determine the application as it can not be granted under officers' delegated powers.

- 3.8 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; including for example, if the application falls within the scope of a cumulative impact policy.
- 3.9 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.
- 3.10 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.
- 3.11 Conditions on a premises licence or club premises certificate 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);
 - cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - should be written in a prescriptive format.
- 3.12 The licensing authority should give its decision within 5 working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it.

Alternative Options	<ol style="list-style-type: none"> 1. Grant the Application with or without additional conditions necessary to promote the Licensing Objectives 2. Grant the Application excluding any of the licensable Activities from the Scope of the Licence 3. Refuse the application
Consultation	<ol style="list-style-type: none"> 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 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.
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. However, if the application is refused, or granted with conditions, the

	<p>applicant has the right of appeal to Magistrates' Court against the decision and, if granted by the court, any costs awarded would need to be met by the Council.</p> <p>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.</p>
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Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> 1. Developing Prosperity
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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 persons 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.
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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.
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Environmental Impact	<ol style="list-style-type: none"> 1. The services for regulation and licensing contribute to the well-being and safety of our residents and towards protecting and providing a high quality and sustainable environment for this and future generations.
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GDPR/Privacy Impact Assessment	<ol style="list-style-type: none"> 1. Not considered necessary
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	Risk Description	How We Manage It	Severity of Risk (RYG)
A			State if risk is Red (severe), Yellow (material) or Green (tolerable) as determined by the Likelihood and Impact Assessment.
B			
C			
D			
E			

Background documents

Relevant web links

[Revised guidance under section 182 of the Licensing Act 2003](#)

<https://www.lichfielddc.gov.uk/downloads/file/1193/licensing-policy-2016-2021>

<http://www.legislation.gov.uk/ukpga/2003/17/contents>