

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Date 20th October 2020 10:00am

1. **LICENSING ACT 2003**

Submitted by: **Head of Environmental Health Services**

Portfolio: **Finance & Resources**

Ward(s) affected: **Madeley & Betley**

Purpose of the Report

To inform the committee of an application to vary a premises licence in relation to the addition of a new beer garden to the premises and the removal of one condition, which has received relevant representations.

Recommendations

In accordance with the Licensing Act 2003, the statutory guidance and the Council's own Statement of Licensing Policy the Sub-Committee must consider the Premises Licence and have regard to the four licensing objectives, as below, when making its decision:

- (i) The Prevention of Crime and Disorder
- (ii) Public Safety
- (iii) The Prevention of Public Nuisance
- (iv) The Protection of Children from Harm

Reasons

An application was received on 25th August 2020 to vary the premises licence at the Offley Arms, Poolside, Madeley, CW3 9DX. During the consultation period conditions were agreed between the applicant and Staffordshire Police, and the Council's Environmental Health Department respectively. Seventeen representations were made which were relevant under the licensing objectives of Prevention of Crime and Disorder and Prevention of Public Nuisance.

1. **Background**

1.1 The licence information relating to this application is as follows:

Premises:	Offley Arms
Location:	Poolside, Madeley, CW3 9DX
Licence Number:	3141
Applicant:	Joules Brewery Limited
Designated Premises Supervisor:	Mr Mark Nicholls

1.2 An application has been received, attached as **Appendix A**, to vary the premises licence at the Offley Arms. The application was made to extend the licensable area to cover a new beer garden to the South of the premises and remove the condition "A *'designated family' area of such a size & design that it genuinely provides a suitable area for Customers and their children wishing shall be available*". A plan was submitted to accompany the application and is attached as **Appendix B**.

- 1.1 During the consultation period, Staffordshire Police and the Council's Environmental Health department proposed new conditions to be added to the licence. The applicant agreed to these conditions, which are attached as **Appendices C and D** respectively.
- 1.2 There have been 17 (seventeen) relevant representations from interested parties and these are attached as **Appendices E1-E17**. The relevant sections of the representations relate to litter, noise nuisance, smoke and light pollution, which fall into the licensing objective of Prevention of Public Nuisance; and anti-social behaviour, which falls into the objective of Prevention of Crime and Disorder. The criteria discussed in the objections does not invoke concerns in relation to the two other licensing objectives so whilst Public Safety is mentioned it is not considered in the report. All other matters discussed in the representations fall outside the remit of the licensing objectives and are therefore not relevant to this application.
- 1.3 Historically, the premises at Poolside, Madeley, CW3 9DX has been a licensed to sell alcohol both on and off the premises for many years however the premises closed due to fire in April 2018 and the licence was transferred to the current owners Joules Brewery on 19th November 2019. The current licensable hours are shown on the licence, attached as **Appendix F**. The current plan is attached as **Appendix F1** which shows the outside seating which is situated to the North of the premises.
- 1.4 With regards to the licensable activities that will be allowed in the new garden area, the police have required, as one of their conditions, that the outside area is not used for the consumption of alcohol after 23:00 hours. Furthermore the application states that any live music outside would be enacted under the Live Music Act 2012 which, alongside the Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2013, the Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015, allows for amplified recorded and live music to be exempt from the requirement to be authorised under a licence when carried out between the hours of 08:00 and 23:00 and for an audience of less than 500 people at premises licensed to sell alcohol.
- 1.5 There is a historic complaint received by the Environmental Health department in relation to noise at this premises from 2016 when the premises licence was held by a previous licence holder. Details of the complaint are attached as **Appendix G**.
- 1.6 A location plan of the premises is attached as **Appendix H**.

2. **Issues**

- 2.1. The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives;
 - (i.) The Prevention of Crime and Disorder
 - (ii.) Public Safety
 - (iii.) The Prevention of Public Nuisance
 - (iv.) The Protection of Children from Harm
- 2.2. The Licensing Act 2003 requires the Council to publish a "Statement of Licensing Policy" that set out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. Copies of the [Council's Statement of Licensing Policy](#) and the [Government's Statutory Guidance](#) are available online and linked here.
- 2.3. In making their decision on the application the Sub-Committee are obliged to have regard to the Statutory Guidance and the Council's own Statement of Licensing Policy. The Sub-

Committee must also have regard to the representations made and the evidence heard at the hearing. However, the Sub-Committee must disregard any representations that do not relate to the promotion of the four licensing objectives.

3. **Options Considered**

3.1 The relevant options considered in relation to this application are:

- a.) grant the application
- b.) modify proposed and/or agree condition (including timings) and grant the application
- c.) refuse the application

4. **Proposal**

4.1 The Sub-Committee, where it considers that action under its statutory powers is appropriate, may take any of the steps outlined at section 3.1 of the report for the promotion of the four licensing objectives.

4.2 For this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

4.3 The Sub-Committee are asked to note that they may not modify the conditions or take any other steps merely because they consider it desirable to do so. Any action taken must be appropriate in order to promote the licensing objectives.

5. **Reasons for Preferred Solution**

5.1 To ensure that the Council promote the licensing objectives in accordance with their statutory duty.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 *The four corporate priorities are:-*

- Local services that work for local people
- Growing our people and places
- A healthy, active and safe borough
- A town centre for all

7. **Legal and Statutory Implications**

7.1 To power to vary a premises licence falls under Section 34 of the Licensing Act 2003.

7.2 Hearings will be carried out in a fair, proportionate and consistent manner in line with:

Article 6(1) guarantees an applicant a fair hearing
Article 14 guarantees no discrimination

8. **Equality Impact Assessment**

8.1 Not Applicable

9. **Financial and Resource Implications**

9.1 All parties have the right to appeal the decision at the Magistrates Court and if successful could apply for the award of costs.

10. **Major Risks**

10.1 As above

11. **Sustainability and Climate Change Implications**

11.1 Not Applicable

12. **Key Decision Information**

12.1 Not Applicable

13. **Earlier Cabinet/Committee Resolutions**

13.1 The Licensing Committee has previously resolved to have regards to its Licensing Policy

14. **List of Appendices**

14.1 Appendix A – Application to vary a Premises Licence

Appendix B – Plans to accompany application

Appendix C – Police agreed conditions

Appendix D – Environmental Health agreed conditions

Appendix E – Representations

1 A Bricknell

2 B Matthews

3 C Jones

4 D Carr

5 G Thompson

6 J Machin

7 J Green

8 J Martin

9 K Coventry

10 L Hollingworth

11 L Trustrum

12 M Trustrum

13 M Young & J Barnwell

14 M Schofield-Thompson

15 S Blagg

16 S Booth

17 T Sewell

Appendix F – Premises Licence

Appendix G – 2016 Complaint

Appendix H – Location Plan

15. **Background Papers**

15.1 Licensing Policy 2015-2020

15.2 Licensing Act 2003 Statutory Guidance