

# Cherwell District Council

## Licensing Sub-Committee

23 January 2019

### Premises Licence Variation Application Hearing

#### Report of Assistant Director: Regulatory Services & Community Safety

This report is public

#### Purpose of report

To consider an application for a Licensing Act 2003 Premises Licence Variation for J.T. Davies, 25 Cornhill, Market Place, Banbury, OX16 5NG

#### 1.0 Recommendations

- 1.1 There is no recommendation, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub-Committee can take are outlined in paragraph 6.2.

#### 2.0 Introduction

- 2.1 To consider an application for a full variation to the premises licence submitted for J.T. Davies, 25 Cornhill, Market Place, Banbury, OX16 5NG.

#### 3.0 Report Details

- 3.1 J.T.Davies is situated at 25 Cornhill, Market Place, Banbury. It is a building on multiple floors. Currently licenced is the ground floor and an outside terrace. The premises has been known by various names in recent years including Castle House.
- 3.2 The current designated premises supervisor is Aidan Conway, he has held this position since April 2018. Since Mr Conway has been in place the council are aware of 4 complaints/issues in relation to the premises;
  - 15 July 2018 – Complaint in relation to excessive noise being emitted from the premises. This was dealt with by way of a warning letter to the premises licence holder
  - 13 November 2018 – complaint in relation to a customer being aggressive towards staff. This complaint is outlined in the representation from Thames Valley Police.
  - 15 November 2018 – complaint received by the council stating that the pub were using an unlicensed area of the premises for licensable activities. This complaint triggered a visit to the premises, advice being given to all parties and the submission of this variation application.

- 15 December 2018 – The council received notification from the police that there was a fight in the pub garden, when the police arrived the fight has dispersed

3.3 Appendix 1 shows a copy of the current licence including the current floor plan.

3.4 An application under the Licensing Act 2003 for a full variation to the premises licence for J.T.Davies was submitted to Cherwell District Council by John Beazley on behalf of W. Brakspear and Sons Ltd on 28 November 2018 as can be seen in appendix 2. The application is to include part of the 1<sup>st</sup> floor of the building and increase the permitted hours for the sale of alcohol for consumption on and off the premises, recorded music, and the opening hours. The hours would then be as follows:

**Recorded Music** - Monday - Wednesday 08.00-02.00, Thursday - Sunday 08.00-03.00

**Sale of Alcohol** - Sunday 09.00-02.30, Monday to Wednesday 09.00-01.30, Thursday to Saturday 09.00 - 02.30

**Opening Hours** - Sunday 08.00-03.00, Monday to Wednesday 08.00-02.00, Thursday to Saturday 08.00-03.00

The committee can make a decision on the upstairs area, the hours for recorded music, the hours for sale of alcohol and the hours for opening.

For clarification purposes appendix 3 contains confirmation of the hours applied for from the applicant. This was communicated with the Responsible Authorities in the consultation email.

3.5 All other matters on the licence are to remain unchanged.

3.6 On 19 December 2018 Neil Whitton from Environmental Protection, Cherwell District Council met with the John Beazley on behalf of W. Brakspear and Sons Ltd, the licence holder and Mr Aidan Conway, the designated premises supervisor, to discuss the application and on 20 December 2018 they agreed to amend the wording of the voluntary conditions attached to the licence, as can be seen in appendix 4. These changes are as follows:

- To amend the noise level on the outside speakers to a maximum of 60dB as opposed to 45dB that is currently stated as this was deemed too low. The location at which this is volume is measured can be seen as the red circle appendix 5.
- To add the following condition – “A noise log shall be kept at the premises which include regular checks of the noise levels of the external speakers level being recorded, a record of any noise complaints received by the premises from neighbours and actions taken as a result of these and any other noise related issues shall be noted. The log shall be kept on the premises and be available to view on request by council or police officers authorised under the relevant legislation.”

3.7 On 26 December 2018 the Licensing department received an objection to the application from Charlotte Norman, Thames Valley Police Licensing Officer. This can be seen in appendix 6.

## **4.0 Conclusion and Reasons for Recommendations**

4.1 There is no recommendation.

## **5.0 Consultation**

5.1 When an application for a premises licence variation is submitted the applicant must display a blue notice at or near the relevant premises and advertise the application in a local publication no later than 10 working days after submitting the application. The consultation period runs for 28 days from the day after the application is received. This gives interested parties and responsible authorities the opportunity to make representations in relation to the application.

5.2 The responses from responsible authorities were as follows:

- Police – Objection
- Fire Service – No Objection
- Child Protection – No response
- Trading Standards – No Objection
- Public Health Board – No response
- Environmental Protection – liaised directly with the applicant and agreed conditions
- Health Protection – No Objection
- Planning – No Objection
- Secretary of State – No response

5.3 No other valid representations were received.

5.4 The applicant and all relevant interested parties submitting representations have been invited to attend this hearing.

## **6.0 Alternative Options and Reasons for Rejection**

6.1 At the end of the consultation period the licensing authority must hold a hearing if relevant representations are received. It must take such steps as it considers appropriate for the promotion of the licensing objectives, which are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

6.2 The steps the Sub-Committee can take are to:

- issue the variation to the licence as applied for;
- issue the variation to the licence with amended hours or licensable activities;
- issue the variation to the licence with additional or amended conditions;
- reject the variation application if it is considered necessary in order to promote the licensing objectives.

## 7.0 Implications

### Financial and Resource Implications

7.1 There are no financial implications arising directly from this report.

Comments checked by: Kelly Wheeler Principal Accountant, 01327 32230,  
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### 7.2 Legal Implications

The Licensing Sub-Committee's determination must comply with the Licensing Act 2003, the statutory guidance issued pursuant to section 182 of the Licensing Act 2003 and the council's Statement of Licensing Policy.

The applicant or 'other persons' who have submitted 'relevant representations' may appeal a decision of the Licensing Sub-Committee to the magistrates' court.

Comments checked by: Sophie Phillips, Solicitor, 01295 753701,  
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## 8.0 Decision Information

### Wards Affected

Banbury Cross and Neithrop

### Links to Corporate Plan and Policy Framework

Not applicable

### Lead Councillor

Councillor Andrew McHugh, Lead Member for Health and Wellbeing

### Document Information

Appendix No	Title
Appendix 1	Current Premises Licence
Appendix 2	Application for Full Variation
Appendix 3	Confirmation of hours applied for
Appendix 4	Copy of agreement of conditions between applicant and Environmental Protection
Appendix 5	Additional site plan for external speakers
Appendix 6	Thames Valley Police Objection
<b>Report Author</b>	Charlotte Lindop, Licensing Enforcement Officer
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