

Licensing Sub-Committee

Premise Licence Determination Hearing

21 August 2012

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

To provide an outline of an application to for the variation of a Premises Licence in relation to Weston Manor Hotel, Weston on the Green, Bicester and detail the representations received from Responsible Authorities and Interested Parties that has resulted in the need for a hearing to determine the application.

This report is public

Recommendations

There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- (1) approve the application for the variation of a premises licence as submitted
- (2) reject the application for the variation of premises licence in whole or part
- (3) place conditions on the variation of premises licence and/or require changes to the details of the permissions sought.

Executive Summary

Introduction

- 1.1 On 30 May 2012, the Licensing Authority received an application for the variation of a premises licence to permit and amend provisions for regulated entertainment, provision of entertainment facilities, provision of late night refreshment and sale by retail of alcohol at the Weston Manor Hotel, Weston on the Green, Bicester.

- 1.2 On 28 June 2012, an amended variation application was submitted to the Licensing Authority amending the applicant's requests and extending the consultation period for a further 28 days. It is this application that the Licensing Sub-Committee is asked to determine at this hearing.
- 1.3 The Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
- 1.4 The licensing objectives are:
 - The prevention of crime and disorder.
 - Public safety.
 - The prevention of public nuisance.
 - The protection of children from harm.

The Guidance issued under Section 182 of the Licensing Act 2003 states:

Each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times. But the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- *the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed premises of entertainment;*
 - *the introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet customers' expectations;*
 - *greater choice for consumers, including tourists, about where, when and how they spend their leisure time;*
 - *the encouragement of more family friendly premises where younger children can be free to go with the family;*
 - *the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities.*
- 1.5 For the Licensing Authority to accept a representation as relevant, it must firstly address one or all of the four licensing objectives and the likely effect of the grant of the premises licence upon the promotion of those objectives. The licensing authority must then determine whether or not the representation may be deemed frivolous, vexatious or repetitious and that they have been received within the relevant timescales. The licensing authority can take whole or part of a representation and deem it as relevant, therefore excluding the irrelevant part from the proceedings.

- 1.6 During the consultation period the Licensing Authority received representations from a number of Responsible Authorities and Interested Parties in the vicinity of the premises. Full details of all relevant representations received are included at paragraph 2 of this report.

Proposals

- 1.7 The applicant has proposed to provide the following regulated activities for the days and times specified:

Plays;

Monday to Saturday inclusive from 11:00 to 23:00 hours and Sunday midday to 21:00 hours, both indoors and outdoors

Live Music / Recorded Music; Performance of Dance; Anything of a similar description to Live or Recorded Music or Performance of Dance; Provision of facilities for Making Music; Provision of facilities for Dancing; Provision of facilities for anything of a similar description to Making Music or Dancing

INDOORS:

Monday to Wednesday inclusive from 11:00 to 23:00 hours, Thursday to Saturday inclusive 11:00 to 01:00 hours the following morning and Sunday midday to 01:00 hours the following morning,

OUTDOORS:

Monday to Thursday inclusive from 11:00 to 23:00 hours, Friday to Saturday inclusive 11:00 to 23:59 hours and Sunday midday to 21:00 hours

Late Night Refreshment;

INDOORS:

Thursday to Sunday inclusive from 23:00 to 01:00 hours the following morning

OUTDOORS:

Fridays and Saturdays from 23:00 to 00:59 hours

Late night refreshment will be available for hotel residents 23:00 to 05:00 irrespective of the day of the week

Sale(by retail) of Alcohol;

ON SALES:

Monday to Sunday inclusive from 11:00 to 01:00 hours the following morning

OFF SALES:

Monday to Thursday inclusive from 11:00 to 23:00 hours, Friday and Saturday 11:00 to 23:59 hours and Sunday midday to 21:00 hours

Alcohol will be supplied to residents, indoors only, for a 24 hour period irrespective of the day of the week. All off sales of alcohol will be restricted in line with the application.

Background Information

- 2.1 On 24 November 2005, the Weston Manor Hotel was issued with a premises licence permitting the retail sale of alcohol for on and off sales and the provision of recorded music for background use only, by virtue of a converted Justices On Licence due to the implementation of the Licensing Act 2003.
- 2.2 On 30 May 2012 an application to vary the premises licence in respect of the Weston Manor Hotel was first received by the Licensing Authority. Concerns raised by Interested Parties regarding the application resulted in the applicant revising the application and resubmitting it to the Licensing Authority and extending the consultation period upon the application for a further 28 day period, until 28 July 2012. As a result, all representations received from the date of the receipt of the original application until the end of consultation on the revised application have been taken into account.
- 2.3 A full copy of the application, including plans of the location to be licensed submitted by the applicant is attached at Appendix 1.
- 2.4 During the consultation period, a total of 9 representations were received in respect of this application and have all been deemed relevant.
- 2.5 On 31 May 2012, the Licensing Authority received a response to the application from Oxfordshire Fire & Rescue Service advising they had no objections to the application. A copy of the correspondence is attached at Appendix 2.
- 2.6 On 31 May 2012, the Licensing Authority received a response to the application from Thames Valley Police advising they had no objections to the application. A copy of the correspondence is attached at Appendix 3.
- 2.7 On 27 July 2012, the Licensing Authority received a response to the application from Rob Lowther, Anti Social Behaviour Manager, Cherwell District Council. The response stated that the Anti Social Behaviour Unit did not object to the variation of the premises licence to allow a range of regulated entertainments within the permanent structure of the hotel subject to a condition or conditions requiring the installation and calibration of sound limiting device(s) and for the doors and windows of the part of the premises being used for such activity to remain closed during such activities except for essential access sand egress.
- 2.8 However, Mr Lowther has stated that he would object to the grant of a premises license that permitted the provision of regulated entertainment involving the use of amplified sound outside the permanent structure of the hotel. The objection would include activities taking place within marquees or other temporary structures that offer negligible levels of sound attenuation. A copy of the full correspondence is attached at Appendix 4.
- 2.9 Between 13 June 2012 and 26 July 2012 the Licensing Authority received 8 relevant representations from Interested Parties. A copy of their correspondence is attached at Appendix 5.

2.10 A Map showing the location of the premises in relation to the location of the Interested Party properties is attached at Appendix 6.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The Licensing Act 2003 states that all licensing matters must promote the four Licensing Objectives, they are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm
- 3.2 Representations received have stated concerns in relation to potential issues in respect of the prevention of public nuisance.
- 3.3 Details of how the applicant intends to promote the four licensing objectives in general in addition to specifically related to promotion of the promotion of the prevention of public nuisance objective is given below:

Objective	Applicants response
General	Premises are always manned by a senior manager, ensuring all licensing objectives are monitored, auctioned, recorded and proactively adjusted.
Prevention of public nuisance	By limiting the db allowed outdoors. Offer taxi service for non residents. Speakers must be placed a minimum of 100 meters and facing away from closest residential dwelling. The level of noise must not exceed 95db for a period longer than 2 minutes. Noise level will be controlled by db limiters and connected through the power supply system. If noise level exceeds agreed level, power will be cut. Should this happen three times during one event, we will stop the noise In case of an open-air performance, this will be limited to 80db Weston Manor accepts that the Parish Council wishes to appoint an individual to monitor the level of noise at their own expense. We do request that this person has previous experience in this field Weston Manor accepts that the Parish Council wishes to appoint an individual to monitor the level of noise at their own expense. We do request that this person has previous experience in this field Weston Manor will adapt 24-hour Duty Management system as part of its ongoing transition to a luxury hotel with specific focus on security Furthermore, we envisage hosting 18 events outdoors during this calendar year. This will include potential open-air theatre, country fairs, farmers markets and private events with regulated entertainment.

3.4 The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations for this case are as follows:

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003,
APRIL 2012:**

Pages 77 – 78	Sections 10.12 – 10.19	Imposed Conditions, Proportionality, Duplication with other statutory provisions
Page 78	Sections 10.20 – 10.22	Hours of Trading
Pages 15 – 16	Sections 2.33 – 2.40	Public Nuisance

**CHERWELL DISTRICT COUNCIL STATEMENT OF LICENSING POLICY,
JANUARY 2010:**

Page 1	Policy GN1	Sections 1.1.1 – 1.1.2	Objectives
Pages 3 - 4	N/A	Sections 2.5.1 – 2.5.13	Fundamental Principles
Pages 5 - 6	Policy GN8	Sections 2.10.1 – 2.10.2	Planning & Building Control
Page 8	N/A	Sections 2.10.1 – 2.10.2	Non-Licensing Issues
Pages 12-14	Policies LH1 – LH8	Sections 5.1 – 5.7	Licensing Hours
Pages 19-21	Policies LA4 – LA6	Sections 7.3.1 – 7.3.13	General Prevention Of Public Nuisance including Addressing Local Concerns and Management and Control

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- Option One** Approve the application for the variation of a premises licence as submitted
- Option Two** Reject the application for the variation of premises licence in whole or part
- Option Three** Place conditions on the variation of premises licence and/or require changes to the details of the permissions sought.

Consultations

The applicant carried out a full consultation in accordance with the requirements of the Licensing Act 2003 for a period of 28 days ending at midnight on 28 July 2012.

Implications

Financial:	There are no financial implications of this report Comments checked by Leanne Lock, Trainee Accountant, 01295 227098
Legal:	The decision must comply with relevant legislation and Council Policy. All parties have a right of Appeal to the Magistrates Court against the decision Comments checked by Paul Manning, Solicitor, 01295 221691
Risk Management:	There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful. Comments checked by Gavin Halligan-Davis, Community & Corporate Planning Manager, 01295 221563

Wards Affected

Bicester

Document Information

Appendix No	Title
1	Application for a premises licence to be granted under the Licensing Act 2003 in respect of the Weston Manor Hotel, Weston on the Green, Bicester
2	Representation from Nick Bateman of Oxfordshire Fire and Rescue Service
3	Representation from the Licensing Team at Thames Valley Police
4	Representation from Rob Lowther of the Anti-Social Behaviour Team at Cherwell District Council
5	Representations from 8 Interested Party
6	Map showing the location of the Interested Party properties in relation to the premises.
Background Papers	
Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them to the meeting.	
Report Author	Claire Bold, Licensing Team Leader
Contact Information	01295 753741 claire.bold@cherwell-dc.gov.uk