

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE – WEDNESDAY, 24 APRIL 2019

Title of report	APPLICATION FOR A VARIATION OF A PREMISES LICENCE
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Purpose of report	<p>To determine an application for a variation of a premises licence in respect of the premises trading as Brew, 106b Market Street, Ashby de la Zouch, Leicestershire. This report outlines the application and also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority’s Licensing Policy.</p>
Council Priorities	Homes and Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p>	<p>Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.</p> <p>N/A</p> <p>The risk of cost arising from an appeal against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.</p> <p>Equality Impact Assessment already undertaken, issues identified actioned.</p> <p>Article 1 of Protocol 1 of the European Convention of Human Rights provides that everyone is entitled to the peaceful enjoyment of his possessions, except in the public interest and subject to the conditions provided for by law.</p>

Transformational Government	Not applicable.
Consultees	Leicestershire Fire and Rescue Service, The Home Office, Trading Standards, Health and Safety, Environmental Protection, Licensing Authority, Planning, Health Authority, the Police and members of the public/local businesses by way of notice at the premises, on the Council's website and at the Council Offices, Coalville.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 Statement of Licensing Policy – Issue 6
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.

1. Background

- 1.1 The premises is currently a shop selling alcohol for consumption off the premises and it is located at 106b Market Street Ashby De La Zouch and currently holds a premises licence issued under the Licensing Act 2003 on 25 May 2017. A copy of the premises licence is attached as **Appendix 1**.
- 1.2 A map showing the location of the premises is attached as **Appendix 2**.
- 1.3 An application for the variation of premises licence was received from Mr Ellis Wigstead on 11 March 2019. A copy of the application is attached as **Appendix 3**.
- 1.4 The variation of the premises licence is detailed as follows:
- The supply of alcohol for consumption both on and off the premises every day from 10:30am to 10:30pm.
 - The playing of recorded music indoors every day from 10:30am to 10:30pm.
- 1.5 The applicant has specified steps they intend to take in order to promote the four licensing objectives:

The prevention of crime and disorder:

All members of staff to adhere to challenge 25 policies that are put in place and refuse any sales of alcohol, where applicable in-line with challenge 25.

All instances of crime and disorder will be reported to the police as soon as possible by a member of staff. All instructions and directions from the police will be complied with at all times.

The premises licence holder shall employ an SIA Licenced Door Supervisor for periods when the high street is at its most populated e.g. the Christmas period and large sporting events.

Where door supervisors are required, the premises licence holder shall keep records showing the names of the supervisor, their SIA Badge Number and expiry date, also including the date and time they were employed by ourselves.

No public access to the premises shall occur through the rear entrance, this condition shall not restrict the use of this door in the event of an emergency.

Patrons may be allowed re-entry when they have left the premises for a cigarette via the front entrance only.

No customers carrying open bottles, cans or drinks containers shall be admitted to the premises at any time that the premises is open to the public.

The premises licence holder and all members of staff shall ensure that no customers shall take any glasses, open bottles or cans from the premises at any time.

The premises licence holder shall ensure that a sign indicating the hours during which licensable activities are permitted to take place. This will be displayed in, on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.

The premises licence holder shall ensure that a sign detailing any restrictions on the admission of children is displayed on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.

CCTV shall be installed, maintained and a member of trained staff shall be onsite at all times, who is able to operate it in the event of an incident.

Public safety:

The premises licence holder shall ensure that when disabled people are present adequate arrangements exist to enable their safe evacuation in the event of an emergency, and that disabled people on the premises are made aware of those arrangements.

The premises licence holder shall ensure that an adequate and appropriate supply of first aid equipment and materials is available on the premises.

The premises licence holder shall ensure that in the absence of adequate daylight the lighting in any area accessible to the public shall be fully operational when the public are present.

Any spillages or breakages will be cleaned immediately and the public will be asked to vacate the area whilst adequate measures are taken to clean the area to prevent any injury.

If any breakages or spillages occur a 'wet floor' sign will be used where needed to prevent slips, trips and falls.

The prevention of public nuisance:

The recorded music will consist of background music to be played via small Bluetooth speaker through a Spotify account. Music will not be amplified at any time. Music will only be played at a background volume and never to be played outside the premises.

Prominent, clear notices shall be displayed at all public exits requesting customers to respect the needs of local residents and leave the premises and the area quietly.

The premises licence holder shall monitor the activity of persons leaving the premises during opening hours and remind them of their public responsibilities where necessary.

Disposal of waste bottles into external receptacles where the noise will be audible to neighbouring properties will not occur between 11pm and 8am.

A sensor alarm is fitted to the emergency exit which alerts staff when it has been opened without authorisation.

The rear private carpark will not be used at any time, in any way by customers, unless in the event of an emergency exit procedure.

The premises licence holder shall instruct staff to not cause unnecessary noise to nearby residents when leaving the premises.

The premises licence holder shall ensure that the immediate area outside the premises is kept clean and free of litter.

Persons permitted to leave the premises temporarily and then re-enter the premises shall not be permitted to take opened drinks, cans, bottles or glass containers with them. All opened drinks containers to remain on the premises at all times.

The protection of children from harm:

No children under the age of 18 shall be permitted onto the premises unless accompanied by an adult at all times.

A challenge 25 policy shall be operated at the premises at all times. All staff shall require identification of all customers who appear to be less than 25 years old and wish to purchase alcohol. Acceptable proof of age will be a photographic driving licence, passport, PASS approved proof of age card, military ID and any other locally or nationally approved form of identification.

Challenge 25 materials shall be displayed at the premises including at the point of sale of alcohol to inform customers of the operation of the scheme.

Training will be provided for all staff before they are allowed to sell alcohol and will include challenge 25, proof of age and refusal records. The training will be documented. The premises licence holder will check that the training has been understood. The training will be repeated at least every 6 months. Records of the training will be provided to the responsible authorities and the licensing authority on request.

The premises licence holder shall operate and maintain an up-to-date record of refused sales of alcohol, indicating the date, time, reason for refusal and person refusing. The record shall be reviewed at least once a month by the premises licence holder. The person carrying out the review shall look for patterns and inconsistencies that may indicate that an individual is not complying with the system or that additional support is required at certain times of the day. The reviewer shall sign and date the record once checked and record any action taken as a result of the review. This information shall be made available upon request to the licensing Authority and any other responsible authorities.

- 1.6 The applicant, Mr Wigstead, has been premises licence holder since 14 January 2019, although he did work in the premises prior to this date. Mr Wigstead has previously applied for six temporary event notices (TENs) for the sale of alcohol on the premises for the dates of 2 December 2018, 9 December 2018, 16 December 2018, 23 December 2018, 2 February 2019 and 2 March 2019 (licensing have not received any complaints for this premises under the premises licence or for any of these TENs).

2.0 Representations

- 2.1 The application was received online by the licensing department. The licensing authority are then required to serve each of the responsible authorities, namely Leicestershire Fire and Rescue Service, The Home Office, Trading Standards, Health and Safety, Environmental Protection, Licensing Authority, Planning, the Health Authority and the Police. Officers are satisfied that all parties were served as required.

- 2.2 There were no representations from the responsible authorities.

- 2.3 Other persons/organisations are able to make representations within 28 days of the display of the notice of the application to the licensing authority. Two representations were received from other parties.

- 2.4 One representation was received from Ashby de la Zouch Town Council on the grounds of public safety and the prevention of public nuisance. The representation stated concerns regarding car parking, the danger of overcrowding, toilet provision and noise nuisance. A copy of the representation is attached as **Appendix 4**.

- 2.5 Another representation was received from Cound and Co. on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance. The representation stated concerns regarding possible criminal damage, parking in their private car park, the security of their premises and noise nuisance. A copy of the representation is attached as **Appendix 5**.

3.0 Cumulative Impact

- 3.1 The premises are situated in Market Street, Ashby De La Zouch which is within the area of the special policy on cumulative impact referred to in the Council's Statement of Licensing Policy.

- 3.2 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations will normally be refused, following relevant representations, unless the applicant can

demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 3.3 The Licensing Authority recognises that this policy cannot be absolute and will consider each application properly on its merit and those that are unlikely to contribute to the cumulative impact problems will be approved.

4.0 Statutory Guidance

- 4.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 1.1 to 1.5, 1.13, 2.1 to 2.10, 2.12 to 2.29, 3.1 to 3.2, 3.11, 8.25, 8.41 to 8.53, 8.66 to 8.77, 8.80 to 8.87, 9.1, 9.3 to 9.12, 9.31 to 9.44, 10.1 to 10.10, 10.13 to 10.15, 10.61 to 10.66, 14.1 to 14.3 and 14.20 to 14.48 may have a bearing upon the application.

5.0 Statement of Licensing Policy

- 5.1 Please note a new Statement of Licensing Policy (issue 7) has been published since this application was submitted, therefore the Sub-Committee is obliged to have regard to its own Statement of Licensing Policy (issue 6) for the purpose of this hearing. Officers consider that paragraphs 2.1 to 2.5, 3.0, 4.1 to 4.4, 5.1 to 5.4, 6.1 to 6.4, 7.1 to 7.4, 10.0, 11.0, 13.0, 22.0, 23.0, 25.0 and 26.0 may have a bearing upon the application.

6.0 Observations

- 6.1 The Committee is obliged to determine this application with a view to promoting 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 Committee may take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:

- a) Grant the application as requested.
- b) Modify the conditions of the licence, by altering or omitting or adding to them.
- c) Reject the whole or part of the application.

- 6.3 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant and persons who made relevant representations.