

APPLICATION TO VARY PREMISES LICENCE

Committee	Licensing Sub-Committee (A)	
Officer Contact	Linda Etherington	01895 556799
Papers with report	Appendices 1, 2, 3, 4, 5	
Ward(s) affected	Charville	

SUMMARY

To consider representations from two local residents in respect of an application to vary the premises licence for **The Carpenters Arms, 1370 Uxbridge Road, Hayes**, made by Greene King.

RECOMMENDATION

That the Licensing Sub-Committee determine the application.

INFORMATION

- 1.1 An application to vary the premises licence for **The Carpenters Arms** was received from Greene King on 9th June 2009. A copy of the application is attached as **Appendix 1**

The applicant is seeking to vary the premises licence as follows:

To extend the licensed hours on Friday and Saturday from 24.00 hours to 02.00 hours
To extend the opening hours on Friday and Saturday from 00.40 hours to 02.40 hours.

See table of licensable activities set attached to this report as **Appendix 2**.

- 1.2 The application was advertised in accordance with the standard procedures required by the Licensing Act 2003.

Following the advertisement of the application, **two** letters were received making representation against the application addressing the licensing objectives relating to the Prevention of crime and disorder and Prevention of public nuisance (**Letters are attached to this report as Appendix 3**).

- 1.3 In accordance with the legislation, the applicant is required to send copies of the application to the responsible authorities as listed below:

- The Metropolitan Police Service
- London Fire & Emergency Planning Authority
- Child Protection Service, LBH
- Commercial Premises Service, LBH
- Environmental Protection Unit, LBH
- Trading Standards Service, LBH
- Planning Service, LBH

No representations were received from any of the responsible authorities.

- 1.4 The period for consultation and the making of representations in respect of this application expired on 8th July 2009.
- 1.5 **The following conditions are currently imposed on the premises licence, a copy of which is attached as Appendix 4:**

General

1. The Licence Holder shall ensure that the following licence conditions are fully complied with.
2. The council's rules of management for public houses annexed hereto shall be fully complied with.

Prevention of crime and disorder

3. The installed CCTV system shall be maintained in effective working order.
4. External lighting shall be maintained in the car parks, front patio and rear garden
5. The DPS shall be a member of PubWatch

Public safety

6. The maximum number of persons accommodated at any one time within the premises shall not exceed the following:-
 - a) when the side extension area is set out as a Pool Room – 225
 - b) when the pool tables are stored in the approved location – 300
7. The mortise lock located on the main entrance/exit door shall be in the unlocked position the whenever the public are on the premises. The key(s) to the locks shall be held by the licence holder or a representative (e.g. the Duty Manager).

Prevention of public nuisance

8. No external drinking shall be permitted after 23.00 hours
9. Signs shall be provided asking customers to leave quietly
10. Regulated entertainment (including recorded music) shall finish at 24.00 hours and shall be provided inside the premises only.
11. External background music shall be turned off at 21.00 hours.

Protection of children from harm

12. No children shall be permitted on the site after 22.00 hours
13. A proof of age scheme shall be operated

General Information

- 1.6
- The premises is a public house on the corner of Hewens Road and the Uxbridge Road (**photographs are attached to this report as Appendix 5**)

LEGAL IMPLICATIONS

2.1 Principles for making the determination

The general principle is that applications for a variation of a Premises Licence must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.

2.2 Relevant representations are those which:

- Are about the effect of the granting of the variation on the promotion of the licensing objectives
- Are made by an interested party or responsible authority
- Have not been withdrawn
- Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

The four licensing objectives are :

- The prevention of crime and disorder;
- Public safety;
- The prevention of nuisance; and
- The protection of children from harm.

Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.

- 2.3 The Licensing Sub-Committee must also consider the London Borough of Hillingdon's licensing policy when deciding whether or not to grant the variation. The terms of the Statement of Licensing Policy are highly persuasive, but not binding on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.

Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act must prevail.

- 2.4 Members are required to have regard to the DCMS Guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, Members may depart from it if they have reason to do so. Full reasons must be given if this is the case
- 2.5 The Sub-Committee must have regard to relevant representations, in determining whether it is necessary for the promotion of the licensing objectives to

- (a) modify the conditions of the licence (conditions are deemed to be modified if any are altered, omitted or any new condition added).
 - (b) reject the whole or part of the application
 - (c) grant the application
- If neither of these steps are taken the application for variation must be granted.

Conditions

- 2.6 The Sub-Committee can only modify the Conditions put forward by the applicant, or refuse the application, if it is necessary to do so. Conditions will not be necessary if they duplicate a statutory position. Members are also referred to the DCMS guidance on conditions, specifically section 7, and Annexes D, E, F and G.

The Statutory Guidance states that only necessary, proportionate and enforceable conditions, which promote one or more of the licensing objectives, should be attached to the licence if it is granted (paragraph 10.11).

The Licensing Authority may therefore only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations (paragraph 10.11), and should avoid straying into undisputed areas (paragraph 9.24). Statutory Guidance also states that the pool of conditions that are supplied by the Secretary of State should not be applied universally irrespective of particular circumstances, but may be used as examples that can be tailored to suit individual premises and particular situations.

The Role of the Licensing Sub-Committee

- 2.7 Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to **perform the role of licensing authority**. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.

As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.

Under the Human Rights Act 1998, the Sub-committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Interested Parties, Responsible Authorities and the applicant have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the Licensing authority of the decision to be appealed against.

FINANCIAL IMPLICATIONS

- 3.1 Members should be aware that the Environment and Consumer Protection does not have a budget provision for costs, should the applicant be successful in appealing to the Court(s) against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.

List of Representations

	Prevention of Crime & Disorder	Public Safety	Prevention of Public Nuisance	Protection of Children from Harm
Mr T E Morgan			X	
Mr K Doyle	X		x	

RELEVANT DOCUMENTS

- Appendix 1 – copy of application form
- Appendix 2 – table setting out licensable activities
- Appendix 3 – letters of representation from local residents
- Appendix 4 - copy of current premises licence and the Council's Rules of Management for Public Houses, Restaurants and other similar premises

- Appendix 5– photographs of the premises
- Appendix 6– Map of the area

BACKGROUND DOCUMENTS:

The Licensing Act 2003

Guidance under Section 182 of the Licensing Act 2003

The Council's Statement of Licensing Policy