

Licensing & Regulatory Sub-Committee

21 May 2019

**Name of Cabinet Member:**

Not applicable

**Director Approving Submission of the report:**

Deputy Chief Executive Place

**Ward(s) affected:**

Sherbourne

**Title: Application to vary a Premises Licence under the Licensing Act 2003**

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**Is this a key decision?**

No

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**Executive Summary:**

The purpose of this report is to consider an application to vary a Premises Licence under the Licensing Act 2003 for the New Spires, Grayswood Avenue, Coventry, CV5 8HJ.

**Recommendations:**

The Sub-Committee is recommended to consider whether to:

1. Grant the application as requested
2. Grant the application subject to such conditions that are necessary to promote the Licensing Objectives
3. Refuse the application wholly or in part where it is necessary in order to promote the Licensing Objectives

**List of Appendices included:**

1. Premises Licence Variation application
2. Plan of Premises
3. Representations
4. Conditions agreed with RA's
5. Current Premises Licence
6. Location Plan
7. Hearing Procedure Note
8. Relevant Hearing Briefing note

**Background papers:**

Section 182 Licensing Act 2003 Guidance

It is a statutory obligation of the Sub-Committee to take into account the Government's Guidance to the Licensing Act 2003 before reaching a decision.

Statement of Licensing Policy

The Council will have regard to the Policy, when making a decision on applications made under the Act

**Other useful documents**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

**Report title: Premises Licence Variation Application**

**1. Context (or background)**

1.1 The Licensing Act 2003 requires Coventry City Council, as the Licensing Authority, to carry out its various licensing functions so as to promote the following four Licensing Objectives:

- The Prevention of crime and disorder
- The Protection of public safety
- The Prevention of public nuisance
- The Protection of children from harm

1.2 A Premises Licence Variation Application for The New Spires was received on 22 March 2019.

1.3 The application seeks to extend the terminal hour for all licensable activities (sale/supply of alcohol, regulated entertainment and late night refreshment) by one hour from 23:00hrs to 00:00hrs Monday to Thursday, and the initial hour on a Saturday morning from 11:00hrs to 10:00hrs. The Variation Application also seeks to make changes to the internal layout of the premises as detailed in the amended plan (see Appendix 2).

1.4 Two representations from residents (other persons), have been received to the application (outlined in paragraph 3.3).

1.5 In addition to the mandatory conditions, the Sub-Committee should refer to the operating schedule detailed in the application (Appendix 1). No further conditions have been proposed with the application.

1.6 The Sub-Committee should note that conditions have been agreed with West Midlands Police during the consultation period (see Appendix 4), which will be attached to the licence should it be granted.

1.7 The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' which sets out the policies the Council will have regard to and apply to promote the licensing objectives when making a decision on applications made under the Act. The Policy will be available at the hearing for reference purposes.

1.8 It is essential that the Sub-Committee takes into account the government's guidance to the Licensing Act before reaching a decision. The applicant, responsible authorities, or any other persons, should bring to the Sub-Committee's attention any relevant paragraphs. However, it is suggested good practice for Members of the Sub-Committee to read the relevant paragraph(s) of the guidance prior to the hearing.

**2 Options considered and recommended proposal**

2.1 There are three courses of action available to the Sub-Committee in relation to this application:

- (i) Grant the application as requested. If the Sub-Committee consider that granting the application would not undermine any of the Licensing Objectives, it should be granted in full as submitted. This would be granted subject to mandatory conditions and conditions consistent with the applicant's operating schedule, and any other conditions agreed by the applicant as part of the consultation process. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.

(ii) Grant the application as above, but the Sub-Committee could impose extra conditions as it thinks fit, or make amendments to the operating schedule conditions, and/or proposed hours. This option may include adding any conditions suggested by other parties at the hearing, including the applicant. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives.

(iii) If the Sub-Committee concludes that no additional conditions would ensure that the Licensing Objectives would be upheld, then the whole application should be rejected.

2.2 Your Officer recommends option (i).

The reason for this recommendation is that there have been no representations made by the responsible authorities (Environmental Protection and the Police), although the Police agreed conditions with the premises during the consultation process. Therefore, the current operating schedule is appropriate for the type of business operation and if problems do occur then the Review procedure is available to both responsible authorities and any other persons.

2.3 The Sub-Committee are advised that they may depart from the Officer recommendation if, having heard all of the evidence, they believe it is appropriate to do so. Should the Sub-Committee decide to depart from the recommendation and choose an alternative option, they must provide full reasons for this decision, based on the promotion of the Licensing Objectives. This application should be considered on its own merits and all the circumstances taken into account before a decision is made.

2.4 The Sub-Committee must also be aware that licences can be reviewed at any time by any Responsible Authority or any 'other person', if it is considered that any of the Licensing Objectives have been undermined following the grant of the premises licence.

### 3 Results of consultation undertaken

3.1 As prescribed by the Licensing Act 2003, the application has been out for consultation to statutory consultees (Responsible Authorities) and any 'other persons' for 28 days in the form of a notice displayed on the premises, and a notice published in a local newspaper.

3.2 Responsible Authorities have received a copy of the application. Please see below responses received:

Responsible Authority	Response Received	Objections	Conditions Agreed
<b>Licensing</b>	No	-	-
<b>Police</b>	Yes	No	Yes
<b>Environmental Protection</b>	Yes	No	-
<b>Fire Safety</b>	No	-	-
<b>Health &amp; Safety</b>	No	-	-
<b>Trading Standards</b>	Yes	No	-
<b>Planning</b>	No	-	-
<b>Safeguarding Children</b>	Yes	No	-
<b>Public Health</b>	No	-	-
<b>Secretary of State</b>	No	-	-

3.3 Two representations have been received from residents (any other persons). The grounds for the representations are that the granting of the extension to the hours as requested would undermine the Licensing Objective of Prevention of Public Nuisance and the Prevention of Crime and Disorder. The representations note concerns regarding increased noise emanating from the premises during the week, and there are concerns that these extended hours would cause an increase in anti-social behaviour and criminality.

3.4 A mediation meeting will take place on 08 May 2019

#### **4 Timetable for implementing this decision**

4.1 The Appeal period is 21 days beginning on the date that the Appellant(s) receive notification of the decision of the Licensing Authority.

#### **5 Comments from Director of Finance and Resources**

##### **5.1 Financial implications**

There are no financial implications arising directly from this report. However, there are possible cost implications if an appeal against the decision is made to the Magistrates Court and the decision of the Sub-Committee is not upheld.

##### **5.2 Legal implications**

The Licensing Act 2003 sets out how applications for variations to premises licences should be dealt with where valid representations have been submitted. The Sub-Committee have to decide the outcome of the application taking into account the four Licensing Objectives.

In accordance with the provisions of the Act, if a Licensing Authority rejects in whole or in part, an application to grant a variation, the applicant may appeal against the decision, to a Magistrates' court within 21 days of receiving notification of the decision.

Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted or that alternative or additional conditions should have been imposed on the licence, they may appeal against the decision, to a Magistrates' court within 21 days of receiving notification of the decision.

#### **6 Other implications**

##### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy**

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. The business' failure to uphold the Licensing Objectives may have an adverse effect on Public Safety and citizen's quality of life.

##### **6.2 How is risk being managed?**

If the application is not handled in line with the Licensing Act 2003, there is a risk of judicial appeals, reviews and associated costs.

##### **6.3 What is the impact on the organisation?**

None

##### **6.4 Equalities / EIA**

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

##### **6.5 Implications for (or impact on) the environment**

None

##### **6.6 Implications for partner organisations?**

The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the West Midlands Police, Community Safety Partnership, local people and those involved in child

protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined.

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