

Agenda Item

REPORT OF LEAD LICENSING OFFICER

To: LICENSING SUB-COMMITTEE

Subject: LICENSING ACT 2003 (s.17) – APPLICATION FOR PREMISES LICENCE
THE WATERFRONT INN, WESTWARD HO!

Date: 7 FEBRUARY 2018

Reference: LAPRE1/00016/18

PURPOSE OF REPORT:

To provide the sub-Committee with information relating to an application for a premises licence for the Waterfront Inn, Westward Ho!, Bideford, Devon, EX39 1LH to enable the sub-Committee to determine the application.

1. INTRODUCTION

An application for a premises licence for the above premises has been made to Torridge District Council under s.17 of the Licensing Act 2003 by Braddicks Holiday Centre. The Licensing Authority has received relevant representations about the application and, in accordance with s.35(3) of the Act, the application must now be determined by a sub-Committee of the Council's Licensing Committee at a licensing hearing.

2. BACKGROUND

The Waterfront Inn is a public house situated adjacent to Golf Links Road close to the commercial centre of Westward Ho! The premises is situated in an area of mixed retail and residential development with private dwellings on three sides of the property. To the rear of the premises is an open area used for car parking which extends as far as the Council owned car park. There is a large beer garden at the rear of the premises and a patio area with tables and chairs at the front. A map of the premises location is provided in Appendix A.

3. CURRENT POSITION

The premises is currently licensed for the following activities:

Indoor sporting event (indoors)

Monday to Wednesday	06:30 - 00:00	1st May to 1st October until 02:00
Thursday	06:30 - 01:00	1st May to 1st October until 02:00
Friday and Saturday	06:30 - 02:00	
Sunday	06:30 - 23:00	1st May to 1st October until midnight

Performance of live music (indoors)

Monday to Wednesday	20:00 - 00:00	1st May to 1st October until 02:00
Thursday	20:00 - 01:00	1st May to 1st October until 02:00
Friday and Saturday	20:00 - 02:00	
Sunday	20:00 - 00:00	

Non-Standard Timings

Sunday preceding Bank Holiday Monday (Whitsun and August only): 13:00 to 21:30 Outdoors, 20:00 to 01:00 Indoors

Playing of recorded music (indoors)

Monday to Wednesday	11:00 - 00:00	1st May to 1st October until 02:00
Thursday	11:00 - 01:00	1st May to 1st October until 02:00
Friday and Saturday	11:00 - 02:00	
Sunday	11:00 - 00:00	

Non-Standard Timings

Sunday preceding Bank Holiday Monday (Whitsun and August only):, 11:00 to 01:00

Entertainment of a similar description to live music, recorded music or dance (indoors)

Monday to Wednesday	20:00 - 00:00	1st May to 1st October until 02:00
Thursday	20:00 - 01:00	1st May to 1st October until 02:00
Friday and Saturday	20:00 - 02:00	
Sunday	20:00 - 00:00	

Supply of alcohol for consumption ON and OFF the premises

Monday to Wednesday	06:30 - 00:00	1st May to 1st October until 02:00
Thursday	06:30 - 01:00	1st May to 1st October until 02:00
Friday and Saturday	06:30 - 02:00	
Sunday	06:30 - 23:00	1st May to 1st October until midnight

Non-Standard Timings

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Sunday preceding Bank Holiday Monday (Whitsun and August only): Mobile Bar - 13:00 to 23:00, Burger Shack Bar - 06:30 to midnight, Internal Area - 06:30 to 01:00.

Opening Hours

Monday to Wednesday	06:30 - 00:20
Thursday	06:30 - 01:20
Friday and Saturday	06:30 - 02:20
Sunday	06:30 - 23:20
Sunday prior to Bank Holiday Monday (Whitsun & August Only)	06:30 - 01:30
Monday to Saturday 1 May to 1 Oct	06:30 - 02:20
Sunday 1 May to 1 Oct	06:30 - 00:20

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

4. THE APPLICATION

The new application is seeking the following activities:

Films (indoors)

Monday to Wednesday	06:30 - 00:00
Thursday	06:30 - 01:00
Friday and Saturday	06:30 - 02:00
Sunday	06:30 - 00:00

Indoor sporting event (indoors)

Monday to Wednesday	06:30 - 00:00
Thursday	06:30 - 01:00

Friday and Saturday 06:30 - 02:00
Sunday 06:30 - 00:00

Performance of live music (indoors)

Monday to Wednesday 06:30 - 00:00
Thursday 06:30 - 01:00
Friday and Saturday 06:30 - 02:00
Sunday 06:30 - 00:00

Non-Standard Timings

Saturday, Sunday, Monday (Whitsun and August Bank Holiday only): 12:00 to 23:00 Outdoors
Sunday (Whitsun and August Bank Holiday only): 06:30 to 01:00 Indoors

Playing of recorded music (indoors)

Monday to Wednesday 06:30 - 00:00
Thursday 06:30 - 01:00
Friday and Saturday 06:30 - 02:00
Sunday 06:30 - 00:00

Non-Standard Timings

Saturday, Sunday, Monday (Whitsun and August Bank Holiday only): 09:00 to 22:00 Outdoors
Sunday (Whitsun and August Bank Holiday only): 06:30 to 01:00 Indoors

Performances of Dance (indoors)

Monday to Wednesday 06:30 - 00:00
Thursday 06:30 - 01:00
Friday and Saturday 06:30 - 02:00
Sunday 06:30 - 00:00

Non-Standard Timings

Saturday, Sunday, Monday (Whitsun and August Bank Holiday only): 09:00 to 22:00 Outdoors
Sunday (Whitsun and August Bank Holiday only): 06:30 to 01:00 Indoors

Entertainment of a similar description to live music, recorded music or dance (indoors)

Monday to Wednesday 20:00 - 00:00
Thursday 20:00 - 01:00
Friday and Saturday 20:00 - 02:00
Sunday 20:00 - 00:00

Non-Standard Timings

Saturday, Sunday, Monday (Whitsun and August Bank Holiday only): 09:00 to 22:00 Outdoors
Sunday (Whitsun and August Bank Holiday only): 06:30 to 01:00 Indoors

Late Night Refreshment (indoors)

Monday to Wednesday 23:00 - 00:00
Thursday 23:00 - 01:00
Friday and Saturday 23:00 - 02:00
Sunday 23:00 - 00:00

Non-Standard Timings

Sunday (Whitsun and August Bank Holiday only): 23:00 to 01:00 Indoors

Supply of alcohol for consumption ON and OFF the premises

Monday to Wednesday 06:30 - 00:00
Thursday 06:30 - 01:00
Friday and Saturday 06:30 - 02:00
Sunday 06:30 - 00:00

Non-Standard Timings

Saturday and Sunday (Whitsun and August Bank Holiday only): Mobile Bar - 14:00 to 23:00, Burger Shack Bar - 06:30 to 00:00, Internal Area - 06:30 to 01:00.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Opening Hours

Monday to Wednesday	06:30 - 00:30
Thursday	06:30 - 01:30
Friday and Saturday	06:30 - 02:30
Sunday	06:30 - 00:30
Sunday prior to Bank Holiday Monday (Whitsun & August Only)	06:30 - 01:30

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

5. REPRESENTATIONS**5.1 Responsible Authorities**

No representations have been received from the Responsible Authorities.

5.2 Other Persons

We have received 3 representations objecting to the application.

We have received 11 representations in support of the application.

At the hearing persons making representations may expand on and add further detail to their written representations but they may not add further or different representations to those disclosed to the applicant prior to the hearing. (*Home Office Guidance 9.37*)

Copies of the representations objecting to the application are provided in Appendix B.

The representations in support of the application are provided in Appendix C.

6. POLICY ISSUES

6.1 The Authority has a duty under s.4 of the Licensing Act 2003 to carry out its licensing functions with the aim of promoting the four licensing objectives. The objectives are:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

6.2 The representations centre on the licensing objective of prevention of public nuisance. The objectors are concerned about the potential for noise from music played at the premises and disturbance from guests leaving the car park when the premises close.

There is also some concern relating to potential crime and disorder.

- 6.3** With regard to noise nuisance, paragraph 5.3.3 of the Authority's Statement of Licensing Policy ('the Policy') states that the Authority, when determining applications, will have regard to wider considerations affecting the residential population, businesses and the amenity of the area.
- 6.4** The Policy states that the Authority will expect applicants to have particular regard to noise issues and to include in their operating schedule *adequate and effective steps to control noise and disturbance from their premises*" (paragraph 5.3.4).

Proposed conditions of licence are included in Appendix D.

- 6.5** The existing licence was issued after a hearing in 2005 when the existing premises operating hours were determined. The Council has no record of any complaints.
- 6.6** The objectors should be aware that, if a licence is granted, they do have the protection of the 'review' process. At any time after the grant of a licence, a person may apply for a review of the premises licence if there are problems at the premises which undermine the licensing objectives. This is a valuable safeguard for local residents.
- 6.7** When considering this matter, the sub-Committee must have regard to government guidance. This makes it clear that the four licensing objectives should be *'paramount at all times'*. (Home Office Guidance 1.4). Where there are objections to an application, the sub-Committee must have regard to these and to the 'likely effect' on the licensing objectives of granting the application.
- 6.8** It is a fundamental principle of the Licensing Act that each application must be considered on its own merits. (Guidance 1.17; Policy 5.3.1).
- 6.9** If the sub-Committee, having considered the application, believes that extra measures are required in order to promote the licensing objectives, it may attach additional conditions to the licence provided that these are appropriate, reasonable and proportionate (Policy 7.2) or it may alter or amend any existing conditions. The sub-Committee must not impose conditions which would be beyond the control of the licence holder. (Guidance 1.16; Policy 7.6). The sub-Committee should also avoid imposing any conditions which would duplicate other statutory regulations (e.g. Health & Safety legislation, fire regulations).
- 6.10** The sub-Committee is advised to take the above matters into consideration when reaching their decision. Members are reminded that they should not consider any irrelevant matters and must confine their deliberations solely to the issues identified in the representations. The sub-Committee may depart from Policy guidelines if there are sound and justifiable reasons for doing so. Any departure from Policy should be fully explained to the parties at the hearing. (Guidance 1.12)

7. CONCLUSIONS

- 7.1** When deciding whether this application should be granted, the sub-Committee should bear in mind that it is essentially making a judgement about risk. If, having regard to all the evidence, the sub-Committee believes that there is no or minimal risk to the promotion of the licensing objectives, then the application should be granted on the terms applied for. If the sub-Committee believes that there are risks which will undermine the objectives, then it should seek to mitigate those risks – either by modifying the application or – in the case of serious and significant risk - by outright refusal of the application.

7.2 Under s.35(4) of the Act, when determining this application, the sub-Committee must – having regard to the representations received - take such steps as it considers appropriate to promote the licensing objectives. The options are:

- To grant the application as submitted,
- To modify timings and/or the conditions of the licence to the extent necessary to promote the licensing objectives,
- To reject all or part of the application.

7.3 In determining the application, the sub-Committee must give appropriate weight to:

- evidence presented at the hearing,
- Guidance issued by the Home Office under s.182 of the Act,
- the Council's Statement of Licensing Policy
- any advice given by the Council's Legal Advisor during the hearing.

7.4 Any party to the hearing may appeal to the Magistrates' Court against the decision of the Licensing sub-Committee. The appeal must be made within 21 days of the date of notification of the sub-Committee's decision.

8. RECOMMENDATION

It is recommended that:

The Licensing sub-Committee determine the application for a premises licence for The Waterfront Inn, Westward Ho! having regard to the information provided in this report, guidance issued by the Home Office under s.182 of the Act, the Council's Statement of Licensing Policy and the evidence presented during the hearing.