

Committee:	Licensing and Environmental Health	Date:	13 March 2018
Title:	Application to vary a Premises Licence – The Saffron Hotel, High Street, Saffron Walden		
Report Author:	Amanda Turner – Licensing Team Leader	Item for decision:	Yes

Summary

1. This report sets out an application for the variation of a Premises Licence in respect of the above to extend non-standard timings for the sale of alcohol. Representations have been made to this application so therefore this matter has been referred to the Committee for deliberation.

Recommendations

- 2 The application is determined
In the event of an appeal against the decision of the Licensing Authority, then a member is nominated to represent the Authority at Court.

Financial Implications

- 3 None

Background Papers

- 4 The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
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Variation application form (Appendix A)
 Current premises licence (Appendix B)
 Plan of premises (Appendix C)
 Location map of premises (Appendix D)
 Representations from interested parties (Appendix E)

Impact

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Communication/Consultation	Details of the application was conveyed to Members of Uttlesford District Council, The Parish Council, and adjoining residents
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Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Under Article 1 First Protocol to the European peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context.
Sustainability	None
Ward-specific impacts	Saffron Walden
Workforce/Workplace	None

Situation

- 6 The Saffron Hotel is situated in the centre of the town of Saffron Walden
- 7 A premises licence was first issued for these premises under the Licensing Act 2003 following an application to convert and vary their existing Justices Licence on 2 November 2005.
- 8 The variation application is to add a condition to the premises licence to expressly permit the sale of alcohol to bona fide residents and their guests at the hotel at times other than when the premises is licensed to sell alcohol to the general public. It is not intended to extend the sales of alcohol or permit the premises to open to the public otherwise than in accordance with the licence as it relates to residents and bona fide guests.
- 9 The current premises licence permits the sale of alcohol, live and recorded music from noon to 1am Monday to Sunday with the premises opening hours being until 1.30am.
- 10 Copies of this application have been served on all of the statutory bodies which have attracted no representations.
- 11 Eight representations have been received from interested parties particularly citing concerns based on the licensing objectives that relates to the prevention of public nuisance. It is feared that the proposed increase in the extended residential drinking hours would cause disturbance to residents when they venture out onto the pavements to gain some air.

- 12 In carrying out the statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:-
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
13. The decision that the Committee can make for this application is to
- Grant the application
 - Modify the application by inserting conditions
 - Reject the whole or part of the application
- 14 When determining an application due regard should be given to the Council's licensing policy and the Secretary of State's Guidance issued in accordance of the Act.

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret "public nuisance" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective controls and measures in place or proposed to prevent public nuisance, may be suitable for 24-hour opening.

5.6 If representations are made applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.7 When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:

- (a) the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- (b) the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00
- (c) A “wind down period” between the end of the licensable activities and closure of the premises the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- (d) the design and layout of premises and in particular the presence of noise limiting features
- (e) the occupancy capacity of the premises
- (f) the availability of public transport
- (g) A last admission time

15. The relevant sections of the guidance issued by the Secretary of State are:-

2.7 It will normally be the responsibility of the premises licence holder as an employee, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from the premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden on smaller venues.

2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address and disturbance anticipated as customers enter and leave.

2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

- 16 If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate and proportionate to promote the licensing objective relative to the presentations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.

