

WELWYN HATFIELD COUNCIL  
LICENSING ALCOHOL AND REGULATED ENTERTAINMENT SUB COMMITTEE  
REPORT OF THE LICENSING OFFICER

Peartree

REPORT TO ALCOHOL AND REGULATED ENTERTAINMENT SUB COMMITTEE

**VARIATION OF A PREMISES LICENCE FOR THE BAKEHOUSE, BESSEMER ROAD, WELWYN GARDEN CITY, AL7 1HH.**

**1 Summary of the Application**

<b>Premises Licence Holder(s)</b>
MARSTON'S PLC
<b>Address of Premises</b>
BESSEMER ROAD, WELWYN GARDEN CITY, AL7 1HH

This committee report contains an application for the variation of an existing premises licence for The Bakehouse, Bessemer Road, Welwyn Garden City, AL7 1HH. The application is contained in Appendix A to this report. The existing premises licence can be found in Appendix B.

Summary of Application Received

An application has been received from John Gaunt & Partners on behalf of the premises licence holder Marston's PLC under the Licensing Act 2003 for a variation to the premises licence. The variation is to extend the premises sale/supply of alcohol and regulated entertainment hours on Fridays and Saturdays to 10:00 – 02:30, late-night refreshment Fridays and Saturdays to 23:00 – 02:30 with an extension to premises opening hours Friday - Saturday to 07:00 - 03:00.

The applicant is in line with legislation by displaying Blue Notices at the Premises on the 29<sup>th</sup> December 2023 and advertised the application in the Welwyn Hatfield Times on the 10<sup>th</sup> January 2024, the Public register was updated and placed on the Councils website and all the Responsible Authorities, Parish Councils and Councillors were notified.

**1.1 Unresolved representations**

The Licence Hearing is as a result of the Licensing Authority receiving a formal written relevant representation against the application from Hertfordshire Police. The representation to the application has been submitted under the Licensing Act 2003 on the statutory grounds of:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance

Part 2 Appendix A - Premises licence variation application form  
Part 2 Appendix B – Existing premises licence and summary  
Part 2 Appendix C – Written representation against the application from Hertfordshire Police

## **2 Details of Representation Received**

A formal written relevant representation has been submitted to the premises licence variation application from Hertfordshire Police. The representation has been judged as appropriate and the application has therefore been brought to the Licensing Sub Committee to be determined. The representation from Hertfordshire Police can be found in Appendix C.

The representation from Hertfordshire Police is made on the grounds of Crime and Disorder and Public Nuisance licensing objectives. The Police representation expresses concern that the premises have held 6 Temporary Event Notices (TENs) since 4<sup>th</sup> December 2022 of which on 4 of the 6 dates Police were called. The Police Licensing Officer states he does not feel this demonstrates an ability for the premises to operate late without compromising the licensing objectives, the venue is already one of the most problematic in Welwyn Garden City and each TEN needs to be considered carefully on a case by case basis.

The nature of TENs is to be permissive and does not equate to 100+ events (Fri, Sat x 52 weeks) a year that a premises licence would grant. This venue is situated on the edge of town and is in a high crime/ASB area. This will be the latest opening pub in Welhat, an hour later opening than the latest pub in town with alcohol sales an hour later too, these are clear risk factors for crime and disorder.

Police's objection under the public nuisance licensing objection is noted as live and recorded music inside and outside at a venue until 0230am is a nuisance that will affect residents. Opening until 3am is a nuisance, with patrons leaving the area and there being limited facilities unless patrons walk back into town. Longer drinking hours can increase intoxication risk which increase the risk of anti social behaviour.

## **3 Background**

The application submitted is for the variation of a premise licence by John Gaunt & Partners on behalf of the premises licence holder Marston's PLC for The Bakehouse, Bessemer Road, Welwyn Garden City, AL7 1HH. The premises is located on the fringe of Welwyn Garden City Town Centre and at the crossroads of Bessemer Road, Bridge Road, Bridge Road East and Broadwater Road.

The variation application submitted is seeking to extend the premises sale of alcohol hours and regulated entertainment on Fridays and Saturdays from 10:00 – 01:00 to 10:00 – 02:30, late-night refreshment from 23:00 – 01:00 to 23:00 – 02:30 with an extension to premises opening hours on Fridays and Saturdays from 07:00 – 01:30 to 07:00 - 03:00.

The Licensing Authority did receive another objection to the application on 25<sup>th</sup> January 2024 from Environmental Health on the grounds of prevention of public nuisance licensing objective. The representation received from Environmental Health is detailed below.

The Bakehouse is situated opposite blocks of residential flats. Environmental Health have received some complaints from residents living close to the pub premises relating to late night music and noise on weekends which raises concern on the impact upon residents with extensions to the pub's operation times. These are listed further below.

The licence variation application states proposed regulated entertainment of live and recorded music times until 00:00 and 02:30 on Fridays and Saturdays. Recorded music applies to both inside and outside entertainment and there is no further information provided on the application or in the form of a noise management plan that sets out management of potential noise impact at these early hours of the morning, or any different intended times that music will be played.

Recorded music played outdoors during the night is highly likely to cause a nuisance to residents. The extended times of indoor live and recorded music may be problematic at the later times due to sound escape and egress for longer periods during the night.

Noise issues will be heightened during the summer months when patrons are more likely to congregate outside the pub and residents more likely to be sleeping with windows open.

### **Evidence of Nuisance Issues**

24 May 2023 Complaint from a resident regarding noise on Friday and Saturday nights until 00:00-01:00 am affecting sleep and being able to have the windows open.

17 May 2022 Complaint received from a resident regarding loud music and screaming on Friday and Saturday nights for previous three weeks and this was investigated into June 2023. The result was the pub closed the garden area off between 11:00/11:30.

25 January 2022 Complaint of bass from the pub on a Friday night.

23 August 2021 Complaint of noise and music on Friday nights.

The applicant's agent responded to the representation made by Environmental Health and as part of mediation advised that the premises would undertake the following measures:

- the premises do undertake noise management controls at the premises. These measures are in addition to the current condition on the premises licence regarding the windows being double glazed and also the further measure offered in the application regarding the doors and windows to

remain closed when live and recorded music is being played (save for exit and egress).

- The premises' DPS and/or authorised member of staff undertake hourly boundary checks for the noise level when regulated entertainment is being played.
- On the rare occasion that the premises receives a complaint from a resident regarding the noise level, action is immediately taken and a check back to confirm that the noise level has been satisfied. On the basis that there is no further complaint or communication from the complaining resident, the premises conclude that remedial action taken has been appropriate.
- The premises will not be playing regulated music in the outside areas of the premises.

The agent stated the premises has not been subject to any enforcement action by the Environmental Health Team and in consideration of all the above measures and also no enforcement action, the premises is of the view that the current measures undertaken at the site are sufficient to promote the licensing objectives.

The Environmental Health Team advised that whilst there is a concern that later hours will increase noise complaints, they were satisfied that the measures described above will help to manage and remedy any ongoing impact on residents and as such the objection to the application from Environmental Health was withdrawn on 29<sup>th</sup> January 2024 on the basis that the measures are conditioned on the premises licence should the variation application be granted.

#### **4 Explanation**

The committee is obliged to determine this application for the variation of the existing premises licence for The Bakehouse. In determining the application the sub-committee must take account of the council's duty to promote the statutory licensing objectives namely:

- A) The prevention of Crime and Disorder
- B) Public Safety
- C) The Prevention of Public Nuisance
- D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

#### **5 Licensing Policy**

- 5.1 The sub committee will also wish to be aware of the Guidance issued under section 182 of the licensing Act 2003.

Guidance 9.37

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying

into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

#### Guidance 9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

#### Guidance 9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

#### Guidance 9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

#### Guidance 10.10

The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding

events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

#### Guidance 10.13

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

- 5.2 The sub-committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes

#### **Licensing Hours**

- 27.1 Licensing hours should not inhibit the development of a thriving safe night-time local economy which is important for investment and employment locally and attractive to domestic and international tourists. We will expect applicants to consider whether conditions are necessary for applications in areas which have denser residential accommodation.
- 27.2 We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.
- 27.3 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.
- 27.6 The Council operates an out of hours noise service based on the assessment of need. The nature and number of complaints are recorded and may be used when compiling reports for our licensing committee and sub committees.
- 27.7 Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place.

## **6 Recommendation**

- 6.1 The committee must have regard to the application made and the evidence it hears. The sub-committee is therefore asked to determine the application.
- 6.2 In determining the application, the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:
- a) To grant the variation of the licence as proposed.
  - b) To modify the conditions of the licence by altering or omitting or adding to them (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added).
  - c) To exclude any of the licensable activities to which the application relates.
  - d) To refuse to specify a person in the licence as the designated premises supervisor.
  - e) To reject the whole of the application or part of it.

The licensing authority may grant an application subject to different conditions in respect of

- a) different parts of the premises concerned
- b) different licensable activities

## **7 Appendices**

- A. Premises licence variation application form
- B. Existing premises licence and summary
- C. Written representation against the application from Hertfordshire Police

Nicol Tupling Licensing Technical Officer  
Date – 05/02/2024