

Bolsover District Council

Licensing & Gambling Acts Sub-Committee

24 November 2021

To hear representations made under the Licensing Act 2003

Report of the Joint Assistant Director for Environmental Health

Classification: This report is public

Report By: Lindsey Delamore

Contact Officer: Lindsey Delamore

PURPOSE / SUMMARY

To hear representations made under the Licensing Act 2003 and determine whether to grant an application for a variation of a premises licence at **The Headstocks, 47 Wharf Road, Pinxton, Nottingham, NG16 6LH.**

RECOMMENDATIONS

The Licensing Sub-Committee may;

1. Grant the variation application as applied for;
2. Grant the variation application, modified to such an extent as the Authority considers appropriate for the promotion of the licensing objectives and any mandatory conditions; or
3. Refuse the application.

Approved by the Portfolio Holder – N/A

IMPLICATIONS

Finance and Risk: Yes No

Details:

An appeal against this decision would incur costs in preparing a defence case and to attend Court. Costs may be recovered at the discretion of the Magistrates in the event that the application is dismissed. Costs could be awarded against the Authority in the event that the appeal is successful.

On Behalf of the Section 151 Officer

Legal (including Data Protection): **Yes** **No**

Details:

All parties have the right to make an appeal to the Magistrates' Court if they are not satisfied with the outcome/conduct of the hearing.

On Behalf of the Solicitor to the Council

Staffing: **Yes** **No**

Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	Pinxton
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input checked="" type="checkbox"/> Other <input type="checkbox"/>	Yes Details:

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

Environment - Working with partners to reduce crime and anti-social behaviour

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

1.1 Bolsover District Council is responsible for the licensing and regulation of Premises Licences under the Licensing Act 2003. As part of those responsibilities the Licensing and Gambling Acts Sub-Committee is required to consider any application for a premises licence where valid representations have been received and not withdrawn.

1.2 The Licensing Act 2003 is clear that four statutory objectives, each of equal importance, must be addressed by the Council when discharging its functions under the legislation.

Those licensing objectives are:

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

1.3 In addition to the legislation, the Council must have regard to the Revised Guidance issued under section 182 of the Licensing Act 2003 and to the Council's own licensing policy.

1.4 The legislation and statutory guidance are clear that each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.

1.5 A premises may only undertake licensable activities where it holds both planning permission and a premises licence to enable it to do so. Planning and Licensing are separate systems of regulatory control; planning deals with the use of the land, and licensing with the detailed operation of a premises where licensable activities take place. Similar considerations are likely to arise in both and there is overlap between the two, but each regime involves consideration of different, albeit related matters and each operate independently. The guidance provides that licensing committees are not bound by decisions made by a planning committee and vice versa.

1.6 In September 2018 the Council adopted a revised Licensing Act 2003 Policy. A number of paragraphs within the policy are relevant in this case. These paragraphs are set out below:

2.2 *In carrying out its licensing functions, the Licensing Authority must also have regard to the licensing objectives, its Policy Statement and any statutory guidance under the Act and is bound by The Human Rights Act 1998. The Council must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Bolsover.*

2.4 *Guidance on the Licensing Objectives is available on the Government's website at: <https://www.gov.uk/guidance/alcohol-licensing>*

2.5 *Licensing law is not the primary mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the individual club, or business holding the licence, certificate or permission concerned. Licensing is about the management of licensed premises and activities within the terms of the Act and conditions attached to various authorisations will be focused on matters which are within the control of the individual licence holder and others.*

4.2 *The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action. Equally any planning approval for a premises does not imply that approval will be giving under the Licensing regime.*

Further information can be found in the Council's Licensing Act 2003 Policy.

2. Details of Proposal or Information

2.1 On 16th September 2021, an application to vary a Premises Licence for **The Headstocks, 47 Wharf Road, Pinxton, Nottingham, NG16 6LH** was received by Bolsover District Council from **Mrs Kelly Allcock of 226 Wharf Road, Pinxton, Nottingham, NG16 6HA**. A copy of the current Premises Licence is attached as **Appendix 1** and a copy of the application is attached as **Appendix 2**.

2.2 The application seeks to vary the operating schedule to the Premises Licence as outlined below:

Licensable activity	Details of Variation
Sale By Retail Of Alcohol	<ul style="list-style-type: none"> • To extend the terminal hour from 22:00 to 23:00 7 days a week. • To add sale by retail of alcohol for consumption off the premises. • To add the following non-standard timings: Christmas Eve 12:00 to 23:00, Christmas Day 11:00 to 23:00, Boxing Day 12:00 to 23:00, New Year's Eve 12:00 to 01:00, New Year's Day 12:00 to 23:00 Easter Monday 12;00 to 23:00, May Day 12:00 to 23:00 Spring Bank Holiday Monday 12:00 to 23:00 and August Bank Holiday Monday 12:00 to 23:00
Live Music	<ul style="list-style-type: none"> • To add the provision of live music indoors and outdoors at the following times: Standard timings: Monday to Thursday 16:00 – 22:00 Friday 14:00 – 22:00 Saturday & Sunday 12:00 – 22:00 Non- standard timings: Christmas Eve 12:00 to 23:00, Christmas Day 11:00 to 23:00, Boxing Day 12:00 to 23:00, New Year's Eve 12:00 to 01:00, New Year's Day 12:00 to 23:00 Easter Monday 12;00 to 22:00, May Day 12:00 to 22:00 Spring Bank Holiday Monday 12:00 to 22:00 and August Bank Holiday Monday 12:00 to 22:00
Recorded Music	<ul style="list-style-type: none"> • To include the provision of recorded music outdoors. • To extend the terminal hour from 22:00 to 23:00 7 days a week. • To add the following non-standard timings: Christmas Eve 12:00 to 23:00, Christmas Day 11:00 to 23:00, Boxing Day 12:00 to 23:00, New Year's Eve 12:00 to 01:00, New Year's Day 12:00

	to 23:00 Easter Monday 12:00 to 23:00, May Day 12:00 to 23:00 Spring Bank Holiday Monday 12:00 to 23:00 and August Bank Holiday Monday 12:00 to 23:00
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- 2.3 The application also seeks to vary the plan attached to the Premises Licence. A copy of the proposed plan is attached at **Appendix 3**.
- 2.4 The application has been processed in line with the legislation and all Responsible Authorities were notified of this application.
- 2.5 The Licensing Team did not receive any formal representations from Responsible Authorities.
- 2.6 The consultation deadline for this application was the 3rd November 2021. By this time, the Licensing Team had received 1 valid representation from an individual member of the public, Mr Kevin Newman, which relates to the prevention of public nuisance, crime and disorder and public safety. This representation is attached as **Appendix 4**.
- 2.7 This party has a legal right to make a representation.
- 2.8 During the consultation both the applicant and the objector engaged in mediation. The following condition has been offered by the applicant, however, this has not been agreed by the objector, Mr Newman.

'The external area of the premises shall not be used for the provision of licensable activities or consumption of beverages after 22:00 hours'.

Details of the proposed additional condition is attached as **Appendix 5**.

3 Reasons for Recommendation

Not applicable

4 Alternative Options and Reasons for Rejection

Not applicable

DOCUMENT INFORMATION

Appendix No	Title
1	Current Premises Licence
2	Variation Application Form
3	Plan

4	Representation
5	Proposed Condition
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	