

Representation following the Application to Vary the Premises Licence at The Etsome Arms, 6 West Street, Somerton, TA11 7PS

Director: Martin Woods – Service Delivery
Report Author: Anita Legg - Specialist - Licensing
Contact Details: anita.legg@southsomerset.gov.uk or 01935 462134

Purpose of the Report

To inform members that an application has been received from P6tey Ltd to vary the premises licence to be granted under the Licensing Act 2003 at The Etsome Arms, 6 West Street, Somerton, TA11 7PS.

Recommendation

To determine the variation of the premises licence in accordance with the options detailed later in the report.

Background

The Council is the authority responsible for determining applications to vary Premises Licences under Section 35 of the Licensing Act 2003.

The Lead Specialist – Environmental Health has delegated authority to determine an application to vary a Premises Licence, subject to no objections being received from a Responsible Authority or “Other Persons”. In this case, relevant representations were received from Eight “Other” Persons; it is therefore necessary to convene a hearing to determine the application.

Licensing Objectives

The licensing objectives are:

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

The licensing objectives are to be considered paramount and the Council has a duty to promote them in its decision making process. An application will not be refused in whole or part or any conditions attached except those offered by the applicant or required by law except where appropriate to promote the licensing objectives.

Application

A copy of the application form is enclosed with the agenda; it does not however include a copy of the plan of the premises.

The details of the application are summarised as follows:

- Applicant: P6tey Ltd

Licensable activity proposed to be varied:

Supply of Alcohol (J) – Consumption ‘On’ and ‘Off’ The Premises

Day	Start Time	Finish Time
Monday	09:00	23:00
Tuesday	09:00	23:00
Wednesday	09:00	23:00
Thursday	09:00	23:00
Friday	09:00	23:00
Saturday	09:00	23:00
Sunday	12:00	23:00

Seasonal Variations: None

Non-Standard Timings: None

Hours premises open to the public (L) – Not a licensable activity, but shown as part of the application.

Day	Start Time	Finish Time
Monday	09:00	23:30
Tuesday	09:00	23:30
Wednesday	09:00	23:30
Thursday	09:00	23:30
Friday	09:00	23:30
Saturday	09:00	23:30
Sunday	12:00	23:30

Seasonal Variations: None

Non-Standard Timings: None

Additional steps put forward by the applicant to comply with licensing objectives. Please see Section M (page 15) of the application form; (these where appropriate, will become conditions of the licence, subject to the application being varied, and are in addition to any further conditions imposed by the Licensing Committee).

Evidence that advertising/notice requirements have been complied with:

- The applicant has confirmed that the notice was displayed at the premises for the requisite period.
- A further notice was placed in the Western Gazette newspaper on 04 April 2019 of which we have a copy.

Representations – Responsible Authorities

- None

Representations – Other Persons

Eight Representations were received from “Other” Persons, which mainly relate to the potential for noise and noise experienced when temporary event notices had been submitted. (Copies have been circulated to members as a confidential supplement to this agenda).

Relevant Observations

Five temporary event notices have been submitted for the premises as follows:

<i>Ref No:</i>	<i>Date(s)</i>	<i>Times</i>	<i>No of days</i>	<i>Max no of Persons</i>
057570	13 – 17 March 2019	12:00 – 23:00 each day	5	90
057624	21-24 March 2019	12:00 – 21:30 on Thursday 21/03/19 12:00 – 22:00 on Friday 22/03/19 12:00 – 22:00 on Saturday 23/03/19 12:00 – 21:30 on Sunday 24/03/19	4	90
057692	28 -31 March 2019	12:00 – 21:30 on Thursday 28/03/19 12:00 – 22:30 on Friday 29/03/19 12:00 – 22:30 on Saturday 30/03/19 12:00 – 21:30 on Sunday 31/03/19	4	60
057693	04 – 07 April 2019	12:00 – 21:30 on Thursday 04/04/19 12:00 – 22:30 on Friday 05/04/19 12:00 – 22:30 on Saturday 06/04/19 12:00 – 21:30 on Sunday 07/4/19	4	60
057832	19 – 21 April 2019	12:00 – 22:30 on Friday 19/04/19 12:00 – 22:30 on Saturday 20/04/19 12:00 – 21:30 on Sunday 21/04/19	3	60

A Temporary Event Notice is intended as a light touch process¹ and is submitted to the Licensing Authority by the premises user (an individual 18 years or over) and is copied to the Police and the Environmental Health Service as a means to authorise licensable activities where either:

- no premises licence/club premises certificate exists
- in cases where it is not being used
- where the operating schedule including days and timings do not meet the need of the premises user.

Each premises can be subject to up to 15 temporary event notice per calendar year, but they may not exceed 21 days in total.

Reference was made in some of the representations that they had not been consulted on the application on any changes to the permitted hours; however the Licensing Act 2003 does not require this; for new and full variation applications, the applicant is required to advertise the application in a newspaper that circulates in the area of the premises and at the premises and only at the premises for minor variations. Temporary Event Notices are only sent to the Police and the part of a licensing authority exercising environmental health functions and only these bodies can object to a temporary event notice.

Some representations also mentioned the requirement to vary the current planning permission. The applicant has been informed, however the premises licence application and planning are dealt with separately.

Further Information

The premises licence currently authorises the sale of alcohol as follows:

¹ Paragraph 7.2 of the Guidance issued under s182 of the Licensing Act 2003, April 2018

Supply of Alcohol (J) – Consumption ‘On’ and ‘Off’ The Premises

Day	Start Time	Finish Time
Monday	09:00	16:00
Tuesday	09:00	16:00
Wednesday	09:00	16:00
Thursday	09:00	16:00
Friday	09:00	16:00
Saturday	09:00	16:00
Sunday	09:00	16:00

Seasonal Variations: None

Non-Standard Timings: None

The hours currently ‘Open to the Public’ are as follows:

Hours premises open to the public (L) – Not a licensable activity, but shown as they are part of the Licence

Day	Start Time	Finish Time
Monday	09:00	17:00
Tuesday	09:00	17:00
Wednesday	09:00	17:00
Thursday	09:00	17:00
Friday	09:00	17:00
Saturday	09:00	17:00
Sunday	12:00	17:00

Seasonal Variations: None

Non-Standard Timings: None

The applicant has proposed that the hours above to be removed and replaced with the hours given in the application.

The conditions currently attached to the premises licence consistent with the Operating Schedule are as follows:

Prevention of Crime & Disorder

1. All alcohol must be locked away at night.
2. The premises must be fitted with an alarm.

Prevention of Public Nuisance

1. No alcohol to be taken off the premises unless it is in sealed containers.

Protection of Children

1. All employees or persons serving alcoholic drinks must receive training with regards to preventing the sale of alcohol and other age-restricted products. This training must be documented and signed for by those employees or persons to acknowledge that they have received this training.

2. All employees or persons serving alcoholic drinks must receive refresher training every 6 months, which must also be documented and signed for by those employees or persons to acknowledge that they have received this training.
3. A "challenge 25" policy to be implemented and all employees or persons involved with the sale of alcohol made aware of acceptable types of proof-of-age identification for example driving licenses, PASS cards or passports.
4. A "refusals register" to be implemented and audited on a regular basis by a person in authority (DPS, premises licence holder or owner of business).
5. The aforementioned documents to be made available to responsible authorities upon request.
6. Posters are displayed in appropriate locations regarding the prevention of underage and proxy sales and will include a notice informing customers that a "challenge 25" policy is in place.

In determining the application with a view to promoting the licensing objectives in the overall interests of the community, the Committee must have regard to and give appropriate weight to the following considerations:

- Any relevant and valid representation (including supporting documentation received)
- The Latest Guidance issued under s182 of the Act
- The Statement of Licensing Policy issued in January 2014.
- The steps appropriate to promote the licensing objectives as set out in s18(4)
- Human Rights considerations in particular Article 6, Article 8 and Article 1 of Protocol 1

Options

The committee may take such steps (if any) as it considers appropriate for the promotion of the licensing objectives; these are stated at section 35(4) of the Licensing Act 2003 and are as follows:

- (a) Modify the conditions of the licence
- (b) Reject the whole or part of the application

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new conditions added.

Right of Appeal

Schedule 5 of the Licensing Act 2003 sets out the rights and procedures for making appeals against the decision of the Licensing Authority:

Variation of licence under section 35

- (1) This paragraph applies where an application to vary a premises licence is granted (in whole or in part) under section 35
- (2) The applicant may appeal against any decision to modify the conditions under subsection (4)(a) of that section
- (3) Where a person who made relevant representations in relation to the application desires to contend-

- (a) that any variations ought not to have been made, or
- (b) that when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under subsection (4)(a) of that section, he may appeal against the decision.

The appellant commences the appeal by giving a notice of appeal to the designated officer for the Magistrates' court within 21 days beginning with the day on which the applicant was notified by the Licensing Authority of the decision appealed against.

Appeals must be made to the Magistrates' Court. On determining the appeal, the court may,

- (a) Dismiss the appeal
- (b) Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- (c) Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

and may make such order as to costs as it thinks fit.

Background Papers

Licensing Act 2003

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

SI 2005 No. 44 Licensing Act 2003 (Hearings) (Regulations) 2005

<http://www.legislation.gov.uk/uksi/2005/44/contents/made?text=%22licensing%20act%202003%22%20AND%20%22hearings%20regulations%22#match-1>

SI 2005 No. 42 Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

<http://www.legislation.gov.uk/uksi/2005/42/contents/made>

The Latest Guidance issued under section 182 of the Licensing Act 2003.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

The Statement of Licensing Policy for South Somerset District Council January 2014.

https://www.southsomerset.gov.uk/media/1862/licensing_policy_2014.pdf