



## White Lion Premises Licence Variation Application

<b>Corporate Priority:</b>	Connected with and led by our community
<b>Relevant Ward Member(s):</b>	Councillors Rob Bindloss and Jeanne Douglas
<b>Date of consultation with Ward Member(s):</b>	3 August 2020
<b>Exempt Information:</b>	No

### 1 Summary

This report provides information for Members when determining the application to vary the premises licence of The White Lion. The application is attached as **Appendix A**. Members will be required to consider the information presented and determine the application by taking such steps it considers necessary for the promotion for the Licensing Objectives.

### 2 Recommendations

- 2.1 It is recommended that the Sub-Committee have regard to the application, all relevant representations, to the Melton Borough Council's Licensing Policy, all relevant statutory provisions and the options available as set out in this report in making a reasonable and proportionate determination which will promote the Licensing Objectives.

### 3 Key Factors

#### 3.1 Reason for Committee Determination

The Licensing Act 2003 came in to force in November 2005. It passed the powers to the Local Authority to licence premises for any of the following licensable activities:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club or to the order of a member of the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

The licensing objectives are:

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

Each objective is of equal importance.

3.2 Melton Borough Council's Licensing Policy designates the centre of Melton as a Cumulative Impact Zone (CIZ) – this means that the number of premises licences are such that the granting of further licences or variations to existing licences would be inconsistent with our duty to promote the licensing objectives.

3.3 As representations have been received, the onus is on the applicant to rebut the presumption of the Cumulative Impact policy (that the variation should not be granted) by satisfying the Sub-Committee that there would be no impact on the licensing objectives.

3.4 The promotion of the four objectives is the paramount consideration at all times.

3.5 The Licensing Act 2003, allows interested persons, and responsible authorities to make representations about any new application or any application to vary an existing licence. Where representations are received (and are valid representations), the application is determined by the Sub-Committee.

### 4 Report Details

4.1 The White Lion has had a premises licence (MMA0090) for longer than our records exist (pre 2005). The premises licence is held by Punch Partnerships (PTL) Limited.

4.2 The premises licence currently permits:

**Performance of live music (indoors), Playing of recorded music (indoors),  
Performance of dance (indoors)**

10:00 – 02:00

**Late night refreshment (indoors)**

23:00 – 02:00

**Supply of alcohol for consumption ON and OFF the premises**

08:30 – 02:30

**Opening hours**

08:30 – 02:30

A copy of the current premises licence is attached at **Appendix B**.

A plan of the premises is attached at **Appendix E**.

- 4.3 In March 2018 a premises licence review application was received from the Police following concerns regarding repeated sales of alcohol to children, knowingly allowing music to be played beyond permitted times, employing an illegal worker, failing to maintain required door staff numbers, allowing a customer who was on the banned pub watch list entry and failing to assist police with supplying CCTV after a serious incident.
- 4.4 At the hearing on 28<sup>th</sup> March 2018 the designated premises supervisor (DPS) was removed. Since then there have been 3 further changes of DPS with the latest being in post since 28<sup>th</sup> July 2020.
- 4.5 An application to vary the premises licence for The White Lion, Melton Mowbray was received on Monday 3<sup>rd</sup> August 2020. The last day for representations was the 31<sup>st</sup> August 2020. On the 19<sup>th</sup> August 2020 a representation was received from Mr A Hubbard and Miss T Vernon (**Appendix C**). On the 28<sup>th</sup> August 2020 a representation was received from David Martschenko on behalf of Melton Borough Councils Environmental Health team (**Appendix D**) (Environmental Health being a responsible authority).

## **5 Summary of the Application:**

5.1 The application requests the following variations:

1. Extend the terminal hour for the sale of alcohol, live music, recorded music, performance of dance and late night refreshment daily until 03:00 the following day
2. Extend the opening hours to allow the premises to close daily at 03:30 the following day
3. Permit live music, recorded music, performance of dance and late night refreshment to take place both indoors and outdoors
4. Remove all existing Annex 2 and Annex 3 conditions and replace with new conditions (Annex 2 are conditions consistent with the operating schedule. Annex 3 are conditions attached after a hearing by the licensing authority)
5. Amend the licensing plan in accordance with the submitted external area plan

## **6 Relevant Policies**

6.1 This application must be considered in accordance with the Melton Borough Council's 'Licensing Act 2003, Statement of Licensing Policy 2017'.

## **7 Representations**

### **7.1 Vernon and Hubbard representation**

The representation received from A Hubbard and T Vernon (**Appendix C**) relates to four of the Licensing Objectives, namely Prevention of Crime & Disorder, Public Safety, the Prevention of Public Nuisance and to Protect Children from harm.

### **7.2 Environmental Health representation**

The representation received from Environmental Health (**Appendix D**) relates to one of the Licensing Objectives, namely Prevention of Public Nuisance.

## **8 Policy & Guidance Considerations**

- 8.1 Members must consider all evidence / representations offered at the Sub- Committee. Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives.
- 8.2 When considering any representations, only those issues relating to the four licensing objectives should be considered and appropriate weight given to the importance and relevance of each representation.
- 8.3 The application should be considered on its merits and any decision should be reasonable and proportionate.
- 8.4 In making any decision, Members must also have regard to the Council's own Statement of Licensing Policy and the Home Office statutory guidance issued under section 182 of the Licensing Act 2003 both of which can be found online at:

### **Policy:**

[http://www.melton.gov.uk/downloads/file/3903/statement\\_of\\_licensing\\_policy\\_-\\_licensing\\_act\\_2003](http://www.melton.gov.uk/downloads/file/3903/statement_of_licensing_policy_-_licensing_act_2003)

### **Guidance:**

<https://www.gov.uk/government/publications/explanatory-memorandum-revisedguidance-issued-under-s-182-of-licensing-act-2003>

- 8.5 Of particular relevance in the Council's Statement of Licensing Policy is the reference to the cumulative impact zone in section 4, 5 & 6. In part, this states:

#### **Section 4**

Cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the licensing authority and its licensing committee to consider.

In certain situations the number, type and distribution of premises selling alcohol may be associated with serious problems of crime and disorder. Where the impact on surrounding areas of customers taken together may be greater than the usual impact of customers from individual areas, the Licensing Authority may consider that an area has become saturated. In these circumstances, where representations are made from a responsible authority such as the police or interested party, such as local residents, the Licensing Authority may consider whether the grant of any further premises licences or club premises certificates would undermine one of the licensing objectives. If this is the case it may adopt a special saturation policy, which would allow it to refuse new licences because the area in question is already saturated with licensed premises.

The Licensing Authority recognises, however, that this policy cannot be absolute and it would continue to consider each application properly on its merit and for licences that are unlikely to add significantly to the problems of saturation would be approved.

#### **Section 5**

The Licensing Authority is mindful of the problems that can be created when large numbers of premises providing licensable activities are located in close proximity. To that end, as part of the council's Statement of Licensing Policy consultation, Leicestershire Constabulary and Leicestershire County Council Public Health have asked the Council to consider adopting a specific policy on cumulative impact i.e. the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area. Increasing access to alcohol through more outlets and longer trading hours is linked to a range of alcohol-related harms. These include increases in alcohol sales per head of population, alcohol-related death rate, alcohol consumption in young people, assaults, and other harms including homicide, child abuse and neglect, and self-inflicted injury.

5.8 This Current Special Policy on Cumulative Impact will only apply to applications for new premises licences or club premises certificates or material variations where the Licensable Activities, as defined in the Licensing Act 2003, occur between the hours of 23:00 and 07:00.

5.9 The Current Special Policy on Cumulative Impact will only come into effect where relevant representations are received in relation to a specific application. If there are no representations the licensing authority must grant a premises licence/club premises certificate in accordance with the application.

## **Section 6**

In making decisions that relate to the hours for which a premise is licensed, consideration will be given to the four licensing objectives. Each case will be decided on its individual merits.

It is recognised that varied licensing hours are important to ensure that concentrations of customers leaving licensed premises simultaneously are avoided. In turn this will reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport.

In relation to shops and other retail outlets supplying alcohol for consumption off the premises, the general policy will be to allow sales of alcohol at all times that the premises is open for business. Any decision not to allow sales of alcohol at particular times will be based on evidence of the need to prevent crime, disorder and public nuisance.

In making decisions in respect of hours, consideration will be given to representations made by residents and businesses in the vicinity of the premises, their representatives, and the police as well as the applicant. This may lead to the imposition of stricter conditions on noise controls in areas having denser residential accommodation.

## **9 Other Relevant Considerations:**

The Sub-Committee is reminded of its responsibilities under the Crime and Disorder Act 1998 (to co-operate in the reduction of crime and disorder in the Melton Borough) and the Human Rights Act (which guarantees the right to a fair hearing for all parties in the determination of their civil rights, and also provides for the protection of property, which may include licences in existence, and the protection of private and family life) when considering the fair balance between the interests of the all parties to this Hearing. Any

decision taken by the Sub-Committee must be necessary and proportionate to the objectives being pursued.

Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives. When considering any representations, only those issues relating to the four licensing objectives should be considered and appropriate weight given to the importance and relevance of each representation.

Members should note that the applicant or persons making representations have the right of appeal against the decision made by the Sub-Committee.

## **10 Options available:**

10.1 Members are required to have regard to the application and any relevant representations and determine which of the following steps they consider appropriate for the promotion of the licensing objectives. On considering the merits of the application before them, the options available to the Sub-Committee are:

- Grant the application as applied for
- Grant the application subject to such conditions as considered necessary to promote the licensing objectives
- Reject the application

## **11 Consultation & Feedback**

11.1 The consultation period took commenced on Monday 3<sup>rd</sup> August 2020 for 28 days ending on 31<sup>st</sup> August 2020. During this time all the statutory consultees were provided with a copy of the application for their consideration.

11.2 During this period, two representations were received as detailed in the body of the report.

## **12 Next Steps**

12.1 Once a decision is made by the Sub-Committee, all parties will be notified of the decision within 5 working days.

12.2 The Sub-Committee should note that the applicant does have the right of appeal within 21 days of being notified of the decision

## **13 Financial Implications**

13.1 There are no financial or other resource implications.

**Financial Implications reviewed by: Director for Corporate Services**

## **14 Legal and Governance Implications**

14.1 The Council is responsible for carrying out the licensing function under the Licensing Act 2003. The Act regulates the sale of alcohol, the provision of entertainment, the showing of film and late night refreshment

14.2 The Council has delegated its licensing function to its Licensing Committee, Sub Committees and Licensing Officers referred collectively to as the "Licensing Authority".

14.3 Any decision must be taken following consideration of the representations received with a view to promoting the licensing objectives which are:

- Prevention of crime and disorder

- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

14.4 Any of the parties involved may, if they are unhappy with the outcome of this hearing, appeal to the Magistrates' Court within 21 days of being notified of the decision.

**Legal Implications reviewed by: Kieran Stockley – Deputy Monitoring Officer**

## **15 Equality and Safeguarding Implications:**

15.1 There are no equality implications arising from this report.

15.2 There are no safeguarding implications arising from this report

## **16 Community Safety Implications:**

16.1 The Community Safety implications are detailed in the body of the report and associated appendices.

## **17 Other Implications**

17.1 The Statement of Licensing Policy was prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued by the Secretary of State under section 182 of the Act. The Council's Policy was adopted by Council on the 12<sup>th</sup> December 2017. The Statement of the Licensing Policy is a live document, subject to review to meet the changing needs of the community, business circumstances and legislation.

## **18 Background Papers**

18.1 None

## **19 Appendices**

19.1 A. Premises licence variation application

19.2 B. Current Premises Licence

19.3 C. Representation from Tubes

19.4 D. Representation from Environmental Health

19.5 E. Current plan of premises

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