

## REPORT TO LICENSING & APPEALS SUB-COMMITTEE

Agenda Item: 4

Hearing Date: 23<sup>rd</sup> July 2015

Contact Officer: Emma McHugh – 01283 595716

### HEARING FOR AN APPLICATION FOR THE VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003

<b>Applicants Name</b>	Marston's PLC
<b>Premises Name</b>	Alma Inn
<b>Address</b>	59 Derby Road, Melbourne, Derbyshire, DE73 8FE

#### 1. PURPOSE

- 1.1 To determine an application to vary a premises licence received by this Authority on 28<sup>th</sup> May 2015 from Marston's Plc. A copy of the application is attached as **Appendix 1** and a copy of the existing premises licence is attached as **Appendix 2**.

#### 2. BACKGROUND

- 2.1 The applicant is seeking to vary the current premises licence as follows:-

- to extend the terminal hour for licensable activities;
- to extend the opening hours of the premises;
- to authorise seasonal variations for licensable activities; and
- to remove the condition restricting the use of the external area which states "The licensee shall ensure that no alcohol is consumed outside the premises after the hours of 22:30 hours".

Further details are indicated in paragraph 3 below.

#### 3. APPLICATION DETAILS

- 3.1 The applicant requests the Licensing Authority to permit the following:

Activity	Days	Times
Films (indoors), indoor sporting events, live music (indoors), recorded music (indoors), performances of dance (indoors)	Monday to Thursday Friday to Sunday Bank Holiday Sundays and Mondays, Christmas Eve and Boxing Day	10:00 to 01:00 10:00 to 02:00 10:00 to 02:00

Late night refreshment (indoors and outdoors)	Monday to Thursday Friday to Sunday Bank Holiday Sundays and Mondays, Christmas Eve and Boxing Day	23:00 to 01:00 23:00 to 02:00 10:00 to 02:00
Supply of alcohol for consumption on and off the premises	Monday to Thursday Friday to Sunday Bank Holiday Sundays and Mondays, Christmas Eve and Boxing Day	10:00 to 01:00 10:00 to 02:00 10:00 to 02:00
Hours premises to remain open to members of the public	Monday to Thursday Friday to Sunday Bank Holiday Sundays and Mondays, Christmas Eve and Boxing Day	10:00 to 01:30 10:00 to 02:30 10:00 to 02:00

- 3.2 The steps the applicant intends to take to promote all four licensing objectives can be seen at section M of the application form.

#### 4. CONSULTATION RESPONSES

##### 4.1 Responsible Authorities

**Environmental Health Department** - Representation received during the 28 day consultation period based on the prevention of public nuisance licensing objective. Full details can be found at **Appendix 3**.

**Derbyshire Constabulary** - Representation received during the 28 day consultation period based on the prevention of crime and disorder and prevention of public nuisance licensing objectives. Full details can be found at **Appendix 4**.

After negotiation with the applicant's solicitors, Derbyshire Constabulary have withdrawn their representation as the applicant has formally amended the hours requested on their variation application and agreed to add two additional conditions to the operating schedule. Full details can be found at **Appendix 5** and the agreed hours are detailed below.

Activity	Days	Times
Films (indoors), indoor sporting events, live music (indoors), recorded music (indoors), performances of dance (indoors)	Sunday to Thursday Friday and Saturday Bank Holiday Sundays, Christmas Eve and Boxing Day	10:00 to 00:00 10:00 to 01:00 10:00 to 01:00
Late night refreshment (indoors and outdoors)	Sunday to Thursday Friday and Saturday Bank Holiday Sundays, Christmas Eve and Boxing Day	23:00 to 00:00 23:00 to 01:00 23:00 to 01:00

Supply of alcohol for consumption on and off the premises	Sunday to Thursday Friday and Saturday Bank Holiday Sundays Christmas Eve and Boxing Day	10:00 to 00:00 10:00 to 01:00 10:00 to 01:00
Hours premises to remain open to members of the public	Sunday to Thursday Friday and Saturday Bank Holiday Sundays Christmas Eve and Boxing Day	10:00 to 00:30 10:00 to 01:30 10:00 to 01:30

#### 4.2 Other Parties

Written representations have been received from 15 residents during the 28 day consultation period based on the prevention of crime and disorder and the prevention of public nuisance licensing objectives. Three of these residents have requested that they remain anonymous. Copies of all of these representations are attached at **Appendix 6**.

Written representations have been received from Councillor John Harrison and Councillor Jim Hewlett, the elected District Councillors for the Melbourne Ward, during the 28 day representation period based on the prevention of crime and disorder and the prevention of public nuisance licensing objectives. Copies of their representations are attached as **Appendices 7 and 8**.

4.3 A map showing the location of the premises is also attached as **Appendix 9**.

### 5. OTHER RELEVANT CONSIDERATIONS

- 5.1 The Authority should consider its responsibilities under the Crime and Disorder Act 1998 and the Human Rights Act 1998 when considering the fair balance between the interests of the applicant and the rights of local residents.
- 5.2 Any decision taken by the Sub-Committee must be appropriate and proportionate to the licensing objectives being pursued.
- 5.3 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.
- 5.4 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 to the application and each representation.
- 5.5 In making its decision, Members must also have regard to the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the Council's Licensing Policy. If Members depart from either, they must specify their reasons for doing so.

## **6. DETERMINATION**

6.1 The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Grant the licence in accordance with the application;
2. Modify the conditions of the operating schedule by altering or omitting or adding to them;
3. Restrict from the scope of the licence any of the licensable activities to which the application relates;
4. Reject the whole of the application.

6.2 Members are asked to note that they may not modify the conditions or reject whole or part of the application merely because they consider it desirable to do so. It must be appropriate to do so in order to promote the licensing objectives and any such step must relate to any outstanding representation made.

6.3 If Members grant the application, the details of the operating schedule will be incorporated into the licence as conditions. The licence will also be subject to certain mandatory conditions.

## **7. RIGHT OF APPEAL**

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

## **8. APPENDICES**

- Appendix 1 Application for the variation of a premises licence.
- Appendix 2 Existing premises licence.
- Appendix 3 Representation from the Environmental Health Department.
- Appendix 4 Representation from Derbyshire Constabulary.
- Appendix 5 Formal notification of the agreed amendment to the application.
- Appendix 6 Representations from other persons.
- Appendix 7 Representation from Councillor John Harrison.
- Appendix 8 Representation from Councillor Jim Hewlett.
- Appendix 9 Map showing the location of the premises.