

## REPORT TO LICENSING & APPEALS SUB-COMMITTEE

Agenda Item

Hearing Date 29th Nov 2010

### **APPLICATION TO VARY A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

#### **Report of the Head of Environmental Services**

#### **1. PURPOSE**

To consider an application for a variation of a premise licence received by this Authority on the 4<sup>th</sup> October 2010 from JD Wetherspoon plc. The application is to vary an existing premises licence held under the Licensing Act 2003, at the Sir Nigel Gresley public house, Market Street, Swadlincote, Derbyshire (**application attached at Appendix 1**).

JD Wetherspoon plc currently holds the premises licence and Mr Stephen Woodward is the Designated Premise Supervisor. The approximate location of the premises is shown on plans (**Appendix 2**)

#### **2. BACKGROUND**

- 2.1 The original application for a premises licence under the Licensing Act 2003 was received on 6<sup>th</sup> July 2005 from JD Wetherspoon plc.
- 2.2 The existing application was granted on the 16<sup>th</sup> January 2006, times and types of licensable activities are indicated below, a copy of the existing premise licence is attached at (**Appendix 3**).

#### **3. EXISTING LICENCE**

- 3.1 The current premises licence: The Licence authorises ;
  - The provision of late night refreshment
  - The supply by retail of alcohol for consumption both on and off the premises

The times the licence authorises the carrying out of licensable activities are indicated (**Appendix 3**).

#### **4. NEW APPLICATION DETAILS**

The proposed variation is seeking permission to vary the plan and consumption area attached to the premises licence to allow drinks into the street pavement café from 09.00hrs until 23.00hrs in line with the pavement café application to Derbyshire County Council, under section 115(e) of the Highways Act 1980, which has now been granted (**Appendix 4**).

This allows consumption of alcohol and late night refreshment on and off the premises.

- 4.1 There has been no request by the applicant to amend the present opening hours to the actual public house, which remain at:  
Sunday to Thursday 07.00hrs until 00.30hrs  
Friday and Saturday 07.00hrs until 01.30hrs

## 5. CONSULTATION RESPONSES

Derbyshire Constabulary -	Representation regarding premises licence ( <b>Appendix 5</b> )
Derbyshire Fire Service -	No Representation
Derbyshire Social Services -	No Representation
Trading Standards -	No Representation
Environmental Health -	No Representation
SDDC Planning Authority -	No Representation
Health & Safety (SDDC) -	No Representation
Interested Parties -	None

## 6. COMMENTS

- 6.1 The hearing will proceed in accordance with the Council's Licensing procedure considered by the Licensing and Appeals Committee on the 11<sup>th</sup> July 2005.

- 6.2 The relevant factors in this particular case relate to concerns over the

- Prevention of Public Nuisance,
- The Prevention of Crime & Disorder and
- Public Safety

- 6.3 ***The representation of Derbyshire Constabulary is outlined below;***

The area in which the premises is situated attracts an amount of anti-social behaviour. This behaviour is already observed in similar premises in the town of Swadlincote. It is feared that the premises licence, when considered with the proposed variation application, does not contain sufficient safeguards to satisfy the Police that the premise will suitably, and

sufficiently, promote the four Licensing Objectives (**email attached at Appendix 5**).

- 6.4 The licensing objectives are matters that should be given paramount importance (guidance issued under section 182 of the Licensing Act 2003 – In relation to guidance I would refer you to (**Appendix 6**) which, discusses the licensing objectives in some detail

The licensing objectives are:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance and
- The protection of children from harm

- 6.5 According to the representations that are made, options open to the Sub-Committee are:

1. Allow the application to be approved with no additional conditions attached.
2. Allow the application to be approved subject to conditions that are consistent with the operating schedule submitted, modified to such extent, as the authority considers necessary for the promotion of the Licensing Objectives.
3. To exclude from the scope of the licence any of the licensable activities to which the application relates.
4. To reject the application.

The applicant has been invited to attend the Sub-Committee hearing, together with their representative, as have the interested party.

## APPENDICES

1. Application to vary a premise licence, including new plans and area requested for licensable activities
2. Plan of premises and surrounding area
3. Current premise licence for Sir Nigel Gresley, Market Street, Swadlincote
4. Copy of letter from Derbyshire County Council dated 23<sup>rd</sup> September 2010
5. Derbyshire Constabulary representation
6. Guidance issued under section 182 of the Licensing Act 2003, version dated March 2010, Part 2, The Licensing Objectives