

DELEGATED

AGENDA NO.

REPORT TO THE STATUTORY LICENSING COMMITTEE

14 October 2021

LICENSING ACT 2003 APPLICATION FOR THE VARIATION OF A PREMISE LICENCE UNION ARMS, 68 HIGH STREET, YARM, TS15 9BH

SUMMARY

The purpose of this report is for Members to determine an application for a variation of a premise licence under the Licensing Act 2003 to which there have been representations from Local Residents.

RECOMMENDATION

That Members determine the application.

THE APPLICATION

1. An application for a variation of a premise licence was received on 5 August 2021 from Spirit Pub Company (Services) Limited, in relation to Union Arms, 68 High Street, Yarm.
2. A copy of the application & proposed plan are attached at Appendix 1 & 2.
3. A copy of the existing premise licence is attached as Appendix 3.
4. A google map street view and arial view showing the location of the premises are attached as Appendix 4.

RESPONSIBLE AUTHORITIES

5. Cleveland Police have agreed conditions with the applicant. A copy is attached at Appendix 5.
6. Environmental Health have agreed conditions with the applicant. A copy is attached at Appendix 6.

INTERESTED PARTIES

7. Two representations against the variation application were received from local residents and are attached at Appendix 7 & 8.

HISTORY & BACKGROUND

8. The embedded restrictions which the applicant has asked to remove, include the following two conditions

The wall separating the "patio area" from the "grassed area" shown on the deposited plan (2881-60) shall be maintained in its current position and at not less than its existing height

There shall be no sale, supply or consumption of intoxicating liquor nor admissions of patrons of the licensed premises in the area to the east of the said wall

The grassed area to the east side of the wall (not shown on the plan) belongs to the applicant and has been used by the residents since around 1999. The applicant notified the residents on

3 August 2021, they were reclaiming this land for their own use. The area is not on the licence plan and is not intended for any licensable activity. An email on 2 September from Piers Warne, Legal Director for Greene King confirmed, 'there is no intention to use that area for licensable activities or even consumption of alcohol / food. The applicants do wish to utilise the area for activities outside of the licence application and licensing in general.

9. A Microsoft Teams meeting arranged by Mr Carneiro, who is one of the interested parties and has made a representation against the application. This meeting took place on 7 September. A summary of notes is attached as Appendix 9.
10. A check of Licensing records shows no complaints or need for enforcement action taken, since 2011.
11. A check of Environmental Health records confirms shows no complaints since 2012.
12. Since the variation application has been submitted Mr Carneiro & Mr Shaw have made complaints to both services regarding noise and lighting issues, and alleged breaches of licence conditions, which has resulted in visits and correspondence with the premise licence holder.
13. Updates from Officers on both of these issues can be given at the hearing, if required.

LEGISLATION & POLICY CONSIDERATIONS

14. Members are respectfully reminded of the need to give due consideration to Stockton Borough Councils Licensing Policy Statement: <https://www.stockton.gov.uk/media/1962147/licensing-act-policy-010221-accessible.pdf> and Section 182 Revised Guidance issued in April 2018 under the Licensing Act 2003 when determining this application.

Paragraph 41 of the Council Policy states:

'The Council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern. An operating schedule should include information which is necessary to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.'

Paragraph 103 of the Council Policy states:

'The licensing authority expects that operators will consider imposing time restrictions on the use of outside drinking areas and with regard to premises situated in residential areas, the licensing authority would not normally expect such outside drinking areas to be in use beyond 10.00pm'

15. Members are also reminded of the provisions of the Live Music Act 2012 and amended in 2015, which reduces regulation surrounding live music in small venues. Businesses granted a premise licence for the sale or supply of alcohol for consumption on the premises have an automatic entitlement to live or recorded music under this legislation if: it takes place between 08:00 – 23:00 and the audience is no more than 500 people.

More information on the above legislation can be found at:

[Live Music Act 2012 - Explanatory Notes \(legislation.gov.uk\)](#)

[Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#)

16. Members must carry out their functions with a view to promoting the four licensing objectives:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm

MEMBERS OPTIONS

10. Members may consider the following options:
1. To refuse the application.
 2. To grant all or part of the application subject to the necessary conditions to promote the four licensing objectives.

ASSOCIATED PAPERS

11. The following appendices are attached for information:
- Appendix 1 - Application Form
 - Appendix 2 - Plan
 - Appendix 3 - Current licence
 - Appendix 4 - Map of location
 - Appendix 5 - Cleveland Police – Agreed Conditions
 - Appendix 6 – Environmental Health – Agreed Conditions
 - Appendix 7 & 8 - Representations
 - Appendix 9 – Meeting Notes

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Financial Implications:

None

Environmental Implications:

The Licensing Act 2003 requires the licensing authority to have regard to:

- Public safety;
- The prevention of public nuisance

Any conditions imposed should reduce the potential for environmental harm.

Community Safety Implications:

The Licensing Act 2003 requires the licensing authority to have regard to:

- The prevention of crime and disorder
- Protection of children from harm

Any conditions imposed should reduce the potential for crime and disorder.

Legal Implications:

Depending upon the determination of this application Schedule 5 of the Licensing Act 2003 provides the applicant, the holder of a licence and/or any person who made a relevant representation in relation to the

application, with the right of appeal to the Magistrates' court.

Human Rights Implications:

Members should have regard to Human Rights Act when determining this application

Background Papers:

Stockton Borough Council Licensing Policy Statement and Licensing Act 2003 Section 182 Guidance

Ward(s) and Ward Councillors:

Yarm
Councillor Dan Fagan
Councillor Julia Whitehill
Councillor Andrew Sherris