

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

21 September 2022

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Delegated

1 APPLICATION FOR THE VARIATION OF A PREMISES STATION HOUSE 8 BARDEN ROAD TONBRIDGE KENT TN9 1TX

1.1 Executive Summary

1.1.1 The Licensing & Appeals Committee sitting as a Panel is asked to consider an application for the variation of a premises licence under section 34 of the Licensing Act 2003 for the premises called Station House, 8 Barden Road, Tonbridge, Kent TN9 1TX.

1.1.2 A copy of the current premise licence can be seen at **ANNEX 1**.

1.1.3 The application seeks to vary the times for licensable activities (outlined below) and to add conditions to the premises licence.

Licensable Activity	Current times	Proposed times
Sale of Alcohol	Sunday – Thursday 08:00 – 00:00	Sunday – Thursday 08:00 – 00:00
	Friday & Saturday 08:00 – 01:00	Friday & Saturday 08:00 – 02:00
Christmas Eve & New Year's Eve	08:00 – 03:00	08:00 – 03:30
Recorded Music	Sunday – Thursday 08:00 – 00:00	Sunday – Thursday 08:00 – 00:00
	Friday & Saturday 08:00 – 01:00	Friday & Saturday 08:00 – 02:00
Late Night Refreshment	Sunday – Thursday 23:00 – 00:00	Sunday – Thursday 23:00 – 00:00
	Friday & Saturday 23:00 – 01:00	Friday & Saturday 23:00 – 02:00

1.1.4 The applicant is The Craft Union Pub Company Limited 3 Monkspath Hall Road, Shirley, Solihull, West Midlands B90 4SJ. The application can be seen at **ANNEX 2**.

1.1.5 A copy of the new proposed conditions can be seen at **ANNEX 3**.

1.2 Background and Introduction

1.2.1 The application to vary the premises licence was received on 28th July 2022 with the 28 day consultation period running from 29th July 2022 until midnight 25th August 2022.

1.2.2 A map showing the location of the Station House is shown at **ANNEX 4**.

1.2.3 At any stage, during the 28 day public consultation period, a responsible authority, or other person, may make representations in connection with any of the four licensing objectives namely:-

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

Provided that the grounds for the request are relevant to the promotion of one or more of the four licensing objectives and, in the case of requests by other persons, are not vexatious, frivolous or repetitive, a hearing must be held to consider the application.

1.2.4 The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Council's current Statement of Licensing Policy was published in 2019 and will remain in force until 2024. The Policy will be available at the hearing, for reference purposes.

1.2.5 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to Guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. The Guidance will also be made available at the hearing for reference purposes.

1.3 Reasons for referral

1.3.1 The Licensing Authority must under the Act refer any application for hearing to the Licensing & Appeals Committee, if relevant representations are made by a responsible authority or other person.

1.3.2 The Licensing Authority has, during the representation period, received 1 representation from a responsible authority and 1 from other persons which are attached to this report as **ANNEX 5**.

1.3.3 Responses received from statutory consultees:

Fire Safety	No comments received
Trading Standards	No comments received
Social Service	No comments received
Police	No objections – conditions agreed prior to the application being submitted
Environmental Health (EH)	EP Conditions Proposed – at the time of writing this report the conditions had not been agreed. The proposed conditions can be seen at ANNEX 6
Health & Safety	No comments received
Public Health	No comments received
Planning	No objections

1.3.4 The applicant, their agents and the interested parties that have made a representation have been invited to attend the hearing.

1.4 Policy Considerations

1.4.1 The following provisions of the Secretary of State’s Guidance apply to this application:

Chapter 2 – The licensing objectives

Chapter 8 – Applications for premises licences

Chapter 9 – Determining applications

Chapter 10 – Conditions attached to Premises Licences

1.4.2 The following paragraphs of the Councils’ Statement of Licensing Policy apply to this application:

Section 3 – Licensing Authority general policy considerations

Section 4 – Responsible Authorities and other persons

Sections 8 – In making decisions in respect to new premises licences.

Sections 17 – Licence conditions - appropriate and proportionate in order to promote the licensing objectives at that premises

1.5 Legal Implications - Determining the application

- 1.5.1 Section 4 of the Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives -
- a) The prevention of crime and disorder
 - b) Public safety
 - c) The prevention of public nuisance
 - d) The protection of children from harm
- 1.5.2 Having regard to the relevant representations, the Panel must take such of the steps set out at paragraph 1.7.1 below, as it considers appropriate, for the promotion of the licensing objectives.
- 1.5.3 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.
- 1.5.4 An application for a variation of a premises licence may be made under s.34 of the Act may be made by the holder of the licence. An application made under s.34 of the Act must be determined in accordance with s. 35 of the Act.
- 1.5.5 Where relevant representations are made, the authority must—
- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in para. 1.7 (if any) as it considers appropriate for the promotion of the licensing objectives.
- 1.5.6 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations, against decisions of the Licensing Authority to the Magistrates Court.

1.6 Options Open to the Panel

- 1.6.1 The steps are—

- (a) to modify the conditions of the licence;
- (b) to 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 condition is added.

1.7 Financial and Value for Money Considerations

1.7.1 None unless there is a successful appeal against the Panel's decision to the Magistrates' Court. This could result in costs being awarded against the Council.

1.8 Risk Assessment

1.8.1 Departure from the Guidance and Policy could lead to an increased risk on an appeal. Similar risks arise if any decision made is not evidence based and proportionate.

1.9 Equality Impact Assessment

1.10 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.11 Recommendations

1.11.1 That members determine the application carefully, considering the application along with any representations made and take such steps as the Panel considers appropriate for the promotion of the Licensing Objectives.

Background papers:

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Licensing Act 2003
Live Music Act 2012
Deregulation Act 2015
Licensing Act Guidance
Statement of Licensing Policy

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