

Report to Licensing Sub Committee

Date of meeting – Tuesday 29th September 2015

By Chris Boyle, Licensing Officer

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

Application for a Variation to an existing Premises Licence under section 34 of the Licensing Act 2003.

Executive Summary

The Premises Licence Holder, East Street (Horsham) Limited have made an application in respect of Wabi Restaurant, 38 East Street, Horsham, West Sussex, RH12 1HL.

The application seeks to extend the opening hours of the rear garden patio area till 01:00hrs Saturday and Sunday mornings. At present the existing premises licence as granted states the following:

- The rear garden patio area will be closed to the public for all activities between the hours of 23:00 and 07:00hrs the following day with the exception that it is used as a fire exit in the event of an emergency.

The variation application seeks to amend the times above to 01:00hrs and 07:00hrs, Saturday and Sunday only.

Recommendations

The Sub- Committee is recommended:

- i) To determine the application to vary an existing premises licence

Reasons for Recommendations

- i) The Sub-Committee is required to make a decision under the Licensing Act 2003

Background Papers

1. Variation Application
2. Noise Management Plan
3. Current Premises Licence
4. Representation from Environmental Health and Licensing
5. Representation from members of the public

Wards affected:

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Contact:

Chris Boyle, Licensing Officer, extension 5578

Background Information

1 Introduction and Background

- 1.1 For the Sub-Committee to determine the application for a variation to the existing premises licence which seeks to extend the opening hours of the rear patio garden area.
- 1.2 On the 13th August 2015, Horsham District Council Licensing Department received an application for a variation of the existing premises licence from the Premises Licence Holder, East Street (Horsham) Limited. The application seeks to amend and extend the hours of operation in relation to the permitted hours the rear garden can be opened to customers.

At present the premises licence states the following:

The rear garden patio area will be closed to the public for all activities between the hours of 23:00hrs and 07:00hrs the following day with the exception that it is used as a fire exit in the event of an emergency.

The application submitted on the 13th August seeks to amend the above times to 01:00hrs and 07:00hrs on a Saturday and Sunday Morning.

- 1.3 The Principal Environmental Health Officer with Horsham District Council, submitted an objection to the grant of the variation application on the grounds of the following licensing objective, Prevention of Public Nuisance in that the application was to be granted would cause “potential noise and general disturbance to neighbouring residents living in the vicinity of the premises”
- 1.4 During the twenty eight (28) day consultation period, six (6) members of the public have submitted relevant objections to the grant of the variation of the application on the grounds of the following licensing objective: Prevention of Public Nuisance.

2 Relevant Council policy

- 2.1 Statement of Licensing Policy dated January 2014

3 Details

- 3.1 This licensed premises has operated for many years with the existing premises licence being granted on the 09th April 2014 following a variation of the then licence. There has been a number of premises licence granted to these premises under both the Licensing Act 1964 and the present Licensing Act 2003.

The current premises licence permits the following licensable activities:

- The sale by retail and supply of alcohol.
- Performance of live music.
- Any playing of recorded music.
- Late night refreshment.

- 3.2 On the 13th August 2015, Horsham District Council Licensing Department received an application for a variation of the existing premises licence from the Premises Licence Holder, East Street (Horsham) Limited. The application seeks to amend and extend the hours of operation in relation to the permitted hours the rear garden can be opened to customers.

At present the premises licence states the following:

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The application submitted on the 13th August seeks to amend the above times to 01:00hrs and 07:00hrs on a Saturday and Sunday Morning.

- 3.3 The Principal Environmental Health Officer with Horsham District Council, submitted an objection to the grant of the variation application on the grounds of the following licensing objective, Prevention of Public Nuisance in that the application was to be granted would cause “potential noise and general disturbance to neighbouring residents living in the vicinity of the premises”
- 3.4 During the twenty eight (28) day consultation period a total of six (6) relevant representations against the grant of the application were received by Horsham Districts Councils Licensing Department on the grounds of the following licensing objective: Prevention of Public Nuisance.
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4 Next Steps

- 4.1 The Licensing Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives.
- 4.2 In making its decision, the Sub-Committee is also required to have regard to Guidance issued under the Section 182 Licensing Act 2003 (as amended) and the councils own Licensing Policy

- 4.3 The Sub-Committee must take one of the following steps as it considers necessary for the promotion of the Licensing Objectives:
- To permit the variation application
 - To reject the variation in whole or in part
 - To modify the conditions of the licence as they relate to the application
 - To exclude a licensable activity from the licence
- 4.4 The Sub Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the four licensing objectives.

5 Outcome of Consultations

- 5.1 The application was advertised in the local newspaper covering the area (West Sussex County Times). Notices were also displayed on site and on Horsham District Councils website with accordance with the Statutory Requirements under the Licensing Act 2003.
- 5.2 A copy of the application was served on all statutory Consultees in accordance with the provisions contained within the Licensing Act 2003 and its associated regulations.
- 5.3 Responsible Authority Representation.
- 5.4 Local Licensing Authority – Environmental Health and Licensing
- The Principal Environmental Health Officer for Horsham District Council contend that the applicant has failed to take sufficient steps to promote the following licensing Objective: Prevention of Public Nuisance
- 5.5 Sussex Police – No Representation
- 5.6 West Sussex Fire & Rescue Service – No Representation
- 5.7 Local Planning Authority – No Representation
- 5.8 Public Health – No Representation
- 5.9 Health & Safety Executive – No Representation
- 5.10 Local National Health Trust – No Representation

6 Other Courses of Action Considered but Rejected

- 6.1 None

7 Financial Consequences

7.1 None

8 Legal Consequences

8.1 The Licensing Act 2003 (as amended) and secondary legislation in the form of regulations there under

8.3 Guidance issued under Section 182 of the Licensing Act 2003.

8.4 Horsham District Councils Licensing Policy dated January 2014.

9 Staffing Consequences

9.1 None

10 Risk Assessment

10.1 None

Appendix 1

Consequences of the Proposed Action

How will the proposal help to reduce Crime and Disorder?	Not Relevant
How will the proposal help to promote Human Rights?	Not Relevant
What is the impact of the proposal on Equality and Diversity?	Not Relevant
How will the proposal help to promote Sustainability?	Not Relevant

