

 <b>Licensing and Regulatory Committee</b> <b>21 October 2014</b>		<b>Agenda Item No.</b> <b>4</b>
<b>Title</b>	Application for a review of the premises licence issued under the Licensing Act 2003 for Falcon, Birmingham Road, Haseley, Warwick.	
<b>For further information about this report please contact</b>	Emma Dudgeon, Licensing Enforcement Officer, Health and Community Protection. Tel: 01926 456113 Emma.dudgeon@warwickdc.gov.uk	
<b>Wards of the District directly affected</b>	None	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	N/A	
<b>Background Papers</b>	None	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality Impact Assessment Undertaken</b>	No
N/A	

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive		
Head of Service	7/10/2014	Marianne Rolfe
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)	8/10/2014	Michael Coker
<b>Consultation &amp; Community Engagement</b>		
N/A		
<b>Final Decision?</b>	Yes	
<b>Suggested next steps - None</b>		

## 1. **Summary**

- 1.1 Under the provisions of the Licensing Act 2003 any person may apply for a review of a premises licence if they feel that the licensing objectives are not being met. In this case a local resident has made representations and called for a review.

## 2. **Recommendation**

- 2.1 Members are asked to consider the information contained in this report, and to determine what action, if any action, to take further to the representation and the premises licence holder's response to these.

## 3. **Reasons for the Recommendation**

- 3.1 On 8 November 2005 a premises licence was issued to English Country Inns PLC for the Falcon, Haseley, Warwick. Since the first issue of the licence, the premises licence holder has changed six times and the current premises licence holder is Mr Dean Tracey. The current Designated Premises Supervisor is also Mr Tracey.

The current premises licence permits:

Sale of Alcohol for Consumption On and Off the Premises

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

On weekdays, other than Christmas Day, Good Friday, or New Year's Eve, 10:00 to 23:00.

On Sundays, other than Christmas Day or New Year's Eve, 12:00 to 22:30

On Good Friday 12:00 to 22:30

On Christmas Day, 12:00 to to 15:00 and 19:00 to 22:30

On New Year's Eve, except on a Sunday, 10:00 to 23:00

On New Year's Eve on a Sunday, 12:00 to 22:30

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31 December).

The above restrictions do not prohibit:

(a) during the first twenty minutes after the above hours then consumption of the alcohol on the premises;

(b) during the first twenty minutes after the above hours, the taking of alcohol from the the premises unless the alcohol is supplied or taken in an open vessel;

(c) during the first thirty minutes after the above hours the consumption of alcohol on the premises by persons taking meals there if the alcohol was supplied for the consumption as ancillary to the meals;

(d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

(e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(f) the sale of alcohol to a trader or club for the purposes of the trade or club;

(g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(h) the taking of alcohol from the premises by a person residing there; or

(i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or  
(j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

The opening hours of the premises

The premises will close at the end of the period for the consumption of alcohol referred to in (a) and (c) above

- 3.2 At first issue there were no conditions or operating schedule put forward to be included on the premises licence and this has remained unchanged.
- 3.3 On 3 September 2014 Warwick District Council Licensing Authority received an application for a review of the premises licence from Mr Waterhouse, a resident who lives in the vicinity of the premises. The application was made under the licensing objectives of the Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children from Harm. A copy of the application form is attached as appendix 1 along with documents submitted by Mr Waterhouse to support the application.
- 3.4 Marston's PLC submitted a Notification of Interest for The Falcon, and therefore were notified of the review application by the Licensing Department. A copy of the review application was also sent to Marston's PLC. On 19 September 2014 the Licensing Department received a letter from the Solicitors acting on behalf of Marston's PLC notifying us of their representation in support of the premises licence holder, Mr Tracey, and their wish to speak at the Committee meeting. This letter is attached as appendix 2.
- 3.5 Warwick District Council Licensing Department has received complaints in relation to the premises. Environmental Health has also received a number of complaints in relation to the premises and an officer witnessed a breach of a Temporary Event Notice on 30 August 2014.
- 3.6 This application has been advertised at the Council offices and on the premises in accordance with the requirements under the Licensing Act 2003.
- 3.7 A map of the area is attached as appendix 3 and a map of the internal area of the premises will be made available at the meeting.

#### 4. **Policy Framework**

- 4.1 When considering the application the panel must give appropriate weight to:-
- a) The representations received.
  - b) Statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
  - c) The Council's Licensing Policy Statement (attached as appendix 4)
  - d) The Licensing Objectives, which are:-

- i) The Prevention of Crime and Disorder.
- ii) Public Safety.
- iii) The Prevention of Public Nuisance.
- iv) The Protection of Children from Harm.

However, it should only consider those licensing objectives which have been referred to in the representations received.

- 4.2 The Council's Licensing Policy Statement provides that the authority will take an objective view on all applications and will seek to attach appropriate and proportionate conditions to licences where necessary in order to ensure the promotion of the four licensing objectives. Each application will be judged on its own merits.
- 4.3 Details of the procedure adopted by the Licensing Committee for Hearings have been supplied to the applicant and those making representations. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

## 5. **Budgetary Framework**

- 5.1 There would be costs associated with any appeal against the decision as set out in 6.1 below.

## 6. **Risks**

- 6.1 Any decision made by the Panel may be appealed against at a Magistrates Court within 28 days of the decision. There would be costs associated with responding to an appeal and the Council could be ordered to pay the Appellants costs if it is deemed to have behaved unreasonably.

## 7. **Alternative Option(s) considered**

- 7.1 No alternatives may be considered.

## 8. **Background**

- 8.1 None.