

A meeting of the above Committee will be held at the Town Hall, Royal Leamington Spa on Monday 20 February 2023, at **4.30pm** and available for the public to watch via the Warwick District Council's [YouTube channel](#).

Councillor O Jacques (Chairman)
Councillor T Wright (Vice-Chairman)

Councillor A Barton	Councillor V Leigh-Hunt
Councillor A Boad	Councillor M Luckhurst
Councillor G Cullinan	Councillor N Murphy
Councillor A Evans	Councillor P Redford
Councillor C Gifford	Councillor W Roberts
Councillor G Illingworth	Councillor S Syson
Councillor C King	

Agenda

1. Apologies & Substitutes

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

2. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. Minutes

- a) To confirm the minutes of the meeting held on 17 October 2022.
- b) To amend the minutes of the Licensing & Regulatory Committee meeting held on 21 March 2022, so that minute 24 refers to the Licensing and Regulatory Committee rather than Panels, and Minute 25 corrects the title of the item to read *Minutes of Licensing & Regulatory Panels*.

4. **Minutes of Licence & Regulatory Panels**

To confirm the minutes of the Licensing & Regulatory Panels as set out below:

- a) 9 November 2022 **(Pages 1 to 6)**
- b) 24 November 2022 **(Pages 1 to 3)**
- c) 29 November 2022 **(To follow)**

5. **Extension of current Public Space Protection Orders**

To consider a report from Safer Communities, Leisure and Environment

(Pages 1 to 6)

6. **Public and Press**

To consider resolving that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Item Numbers	Paragraph Numbers	Reason
7	1	Information relating to an Individual
7	2	Information which is likely to reveal the identity of an individual

7. **Confidential Minutes of the Licensing & Regulatory Panels**

To confirm the confidential minutes of the Licensing & Regulatory Panel meeting held on:

- a) 28 September 2022 **(Pages 1 to 10)**
- b) 13 October 2022 **(Pages 1 to 5)**
- c) 15 December 2022 **(Pages 1 to 3)**
(Not for publication)

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General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 456114

E-Mail: committee@warwickdc.gov.uk

For enquiries about specific reports, please contact the officers named in the reports. You can e-mail the members of the Committee at LandRCommittee@warwickdc.gov.uk

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The agenda is available in large print on request, prior to the meeting, by telephoning (01926) 456114

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Wednesday 9 November 2022, at 10.00am.

Present: Councillors Gifford, Jacques and Wright.

Also Present: Rob Edwards (Committee Services Officer), Ross Chambers (Council's Solicitor), and Emma Dudgeon (Licensing Enforcement Officer).

1. Apologies and Substitutes

There were no apologies for absence made.

2. Appointment of Chairman

Resolved that Councillor Wright be appointed as Chairman for the hearing.

3. Declarations of Interest

There were no declarations of interest made.

4. Application for a new Premises Licence under the Licensing Act 2003 for JD Wetherspoon, 18 – 24 The Square, Kenilworth

The Panel considered a report from Health and Community Protection which had received a valid application for a new premises licence for JD Wetherspoon, 18 – 24 The Square, Kenilworth, CV8 1EB. Representations had been received in relation to the application for the consideration of the panel in the determination of the application.

JD Wetherspoon PLC applied for a new premises licence for JD Wetherspoon, 18 – 24 The Square, Kenilworth, CV8 1EB on 15 September 2022. The premises were currently not trading.

The application was for the sale of alcohol for consumption on and off the premises and late-night refreshment. A copy of the relevant part of the application form was attached as appendix 1 to the report.

The Licensing Department initially received comments to the application from Environmental Health, which they followed up by an objection. The comments and objection received from Environmental Health were attached as appendix 2 to the report. The Licensing Department also received an objection from a resident attached as appendix 3 to the report.

Trading Standards made comments in relation to the application, requesting that a Challenge 25 scheme be implemented. However, following the agreement of conditions between the applicant and Warwickshire Police, Trading Standards withdrew its comments. The conditions agreed with Warwickshire Police were attached as appendix 4 to the report.

A plan showing the location of the premises was attached as appendix 5 to the report along with the current plan of the internal layout. Photographs of the premises were attached as appendix 6 to the report.

The Chairman asked Members of the Panel to introduce themselves. The other parties then introduced themselves as:

- Nigel Connor – Legal Director and Company Secretary.
- Rob Browning – Area Manager.
- Debbie Whittingham – Regional Manager.
- Stacey Walsham - Environmental Protection Technical Officer.
- Matthew Shirley - Senior Environmental Health Officer.

The Council's Solicitor announced the procedure for the meeting. At the Chairman's request, the Licensing Enforcement Officer introduced the report.

An addendum was circulated prior to the meeting following further negotiation between the Senior Environmental Health Officer and the applicant. Subsequently, some agreed conditions were circulated to all parties. Warwick District Council Environmental Health officers attended the Panel to confirm if they still had objections to the application. The Licensing Department also received an objection from a resident, attached as appendix 3 to the report, who had also sent further comments following the agreement of these conditions which had also been circulated to all parties.

The Chairman invited the applicants to introduce the application.

- The premises was a two-storey site, and contracts had been exchanged for its purchase, subject to the grant of Planning and Licensing permissions.
- It would be a traditional JD Wetherspoon set up with no music or karaoke, and no regulated entertainment, and would have a heavy emphasis on food. There would be a high number of tables and chairs to accommodate diners, which would not be removed to accommodate drinkers. Children would be welcome until 9:30pm with adult supervision. Such a set up attracted a wide range of clientele to the premises.
- In response to the written objection from the resident, the premises would be food/family orientated so it would not hold a great attraction to those who wanted to cause trouble. Each pub did not operate on a tenanted basis, but managed by a JD Wetherspoon employed manager, with a high number of staff to customer ratio, and with senior members of staff on duty at peak times. The management procedures were tried and tested and there was a clear chain of command up to board level. There was a zero-tolerance approach to poor behaviour and language, and JD Wetherspoon worked closely with Police and Licensing authorities so that any concerns could be dealt with quickly. JD Wetherspools also participated in Pub Watch. Outside areas would be monitored by staff, who regularly brought drinks and food outside. No music would be played which would help allay residents' fears of noise. The majority of trade was led by food which stopped a high volume of customers at late times. On peak nights, risk assessments were carried out to decide whether door staff were needed. In terms of litter, there was a commitment to checking the immediate vicinity after closing, and tidy away where necessary.
- There was a provision for a residents' meeting, where local residents would be invited to come within 4-6 weeks of opening to meet the manager and take a look round the premises, to ensure they were aware

of exactly who and where they needed to go to if there were any problems to resolve. If issues were not solved, the manager could escalate matters up to head office to help if necessary.

The Environmental Health officer advised Members that nine additional conditions were agreed with the applicant the day before the meeting, as below:

- *There shall be no use of the rear external garden area by customers between the hours of 2100 and 0800 on any day.*
- *Patrons permitted to temporarily leave the curtilage of the premises and then re-enter, e.g. to smoke, shall not be permitted to take drinks or glass containers with them. This requirement shall not apply to customers using any external terrace area within the demise of the premises or any external area operated under a pavement licence or similar under the direct control of the premises licence holder.*
- *The premises licence holder (or his/her nominees) shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are sufficiently monitored by staff to ensure that there is no public nuisance or obstruction of the public highway.*
- *All external doors and windows at the rear of the property shall be kept closed between 21:00 and 08:00 hours daily, except for the immediate access and egress of persons or in the event of an emergency. After 23:00, all external doors and windows at the property shall be kept closed until 08:00 hours the following day, except for the immediate access and egress of persons or in the event of an emergency.*
- *The licence holder (or his/her nominees) shall ensure that any customers leaving the premises that are identified by staff as making noise likely to cause disturbance to local residents are asked to be quiet and to leave the immediate area as quickly as possible.*
- *No speakers for amplification of voice or music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.*
- *Prominent, clear, and legible notices shall be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.*
- *Clear and legible notices shall be prominently displayed in any external seating areas requesting patrons to respect the needs of local residents and to use the area quietly.*
- *No waste or recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between 21:00 hours and 08:00 hours on the following day.*

The Environmental Health Officer therefore advised the Panel that Environmental Health had withdrawn its objection. Mr Connor thanked them for their cooperation.

In response to questions from the Panel, the applicants advised that:

- All staff got training commensurate with their responsibilities, and all were aware of the need to identify customers causing problems. It was the managers' primary responsibility, but other staff would alert management to problems and remain vigilant.
- The boundary of the beer garden was a relatively high wall, with an emergency exit only, so there would be no entrance for customers through the rear.
- There would not be a drinking area upstairs, just access to the toilets.
- Risk assessments on the need for door staff took place constantly and were based on local events/sporting events for example, but took place regularly throughout the year with a forward planning process.

The Licensing Enforcement Officer clarified that there was not a Pub Watch in Kenilworth, but some pubs had shared details in the past between them to enable real time communication. The applicants were keen to explore trying to set up a Pub Watch or a process of sharing contact details among some of the other pubs in the vicinity.

When given the opportunity to make any further statements, the applicants had no further comments.

At 11.05am, the Chairman asked all parties other than the Panel, the Council's Legal Advisor, and the Committee Services Officer to leave the meeting, in order to enable the Panel to deliberate in private and reach its decision. The decision would be communicated in writing via email to the applicant and interested parties later on the same day, followed by a written notice with a full decision within seven days.

Resolved that the application be **granted**.

In making their decision the Panel considered all the information provided in advance of, and at, the Hearing and the statutory guidance and the Council's Statement of Licensing Policy.

The Panel considered the potential impact on the licensing objectives and in particular public nuisance. The Panel noted that the Applicant had agreed conditions with Warwickshire Police and Environmental Health and that there were no remaining objections from responsible authorities.

The Panel expect that the measures agreed to ensure customers leave the premises quietly continue in the long term and that the Applicant will be proactive in joining or creating a local Pubwatch scheme.

The Panel therefore determined that it is appropriate for the promotion of the licensing objectives to grant the application for a premises licence at JD Wetherspoon, 18-24 The Square, Kenilworth as set out below:

Sale of Alcohol for Consumption On and Off the Premises

Sunday to Thursday from 08:00 to 23:00

Friday to Saturday from 08:00 to 00:00

Late night refreshment (Indoors only)

Friday to Saturday from 23:00 to 00:00

As part of the decision to grant the application, the Panel determined that the following conditions should be applied to the premises licence to promote the licensing objectives:

1. The conditions set out in the operating schedule at Appendix 1 of the Report, amended as indicated;

2. The conditions set out at Appendix 4 of the Report, subject to an amended door staff condition as follows:

The premises to use door staff as appropriate and at necessary times based on regular operational risk assessments and all door staff employed to start no later than 21:00. The premises supervisor will continue to liaise with Police in respect of door staff requirements and consider their views in the formulation of any risk assessment.

3. The conditions agreed between the Applicant and Environmental Health as follows:

- There shall be no use of the rear external garden area by customers between the hours of 2100 and 0800 on any day;
- Patrons permitted to temporarily leave the curtilage of the premises and then re-enter, e.g. to smoke, shall not be permitted to take drinks or glass containers with them. This requirement shall not apply to customers using any external terrace area within the demise of the premises or any external area operated under a pavement licence or similar under the direct control of the premises licence holder.
- The premises licence holder (or his/her nominees) shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are sufficiently monitored by staff to ensure that there is no public nuisance or obstruction of the public highway.
- All external doors and windows at the rear of the property shall be kept closed between 21:00 and 08:00 hours daily, except for the immediate access and egress of persons or in the event of an emergency. After 23:00, all external doors and windows at the property shall be kept closed until 08:00 hours the following day, except for the immediate access and egress of persons or in the event of

an emergency.

- The licence holder (or his/her nominees) shall ensure that any customers leaving the premises that are identified by staff as making noise likely to cause disturbance to local residents are asked to be quiet and to leave the immediate area as quickly as possible.
- No speakers for amplification of voice or music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.
- Prominent, clear, and legible notices shall be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
- Clear and legible notices shall be prominently displayed in any external seating areas requesting patrons to respect the needs of local residents and to use the area quietly.
- No waste or recyclable materials, including bottles, shall be moved, removed from, or placed in outside areas between 21:00 hours and 08:00 hours on the following day.

The Applicant or any person who has made representations may appeal against the decision of the Panel to the Magistrate's Court within 21 days of issue of formal notification of the decision.

(The meeting ended at 11.30am)

CHAIRMAN
20 February 2023

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held at the Town Hall, Royal Leamington Spa, on Thursday 24 November 2022, at 10am.

Present: Councillors C Gifford, Illingworth and Roberts.

Also Present: Patricia Tuckwell (Civic & Committee Services Manager), Sue Mullins (Council's Solicitor) and Rachael Russell (Licensing Team Leader).

1. Apologies and Substitutes

There were no apologies for absence made.

2. Appointment of Chairman

Resolved that Councillor Gifford be appointed as Chairman for the hearing.

3. Declarations of Interest

There were no declarations of interest made.

4. Mobile Street Trading Consent holder wishes to trade outside of the restrictions set out within Warwick District Council's Street Trading Policy

The Panel considered a report from Health and Community Protection which brought forward a renewal application for a Street Trading Consent to trade outside the hours and restrictions set out within Warwick District Council's Street Trading Policy.

The Chairman asked Members of the Panel to introduce themselves. The applicant then introduced himself as Mr Hayer.

At the Chairman's request, the Licensing Team Leader introduced the report.

The Licensing Team Leader outlined the report and asked the Panel to consider all the information contained within it.

Anyone who exposed goods for sale within the District needed a Street Trading Consent issued by the Council. Upon receiving the application, officers referred to the current Street Trading Policy which permitted trading between the hours of 06:00 and 18:00.

Mr Hayer originally applied for a Street Trading Consent in 2021. He was required to attend a Licensing and Regulatory Panel as he requested to trade from Wednesday to Saturday, from 17:00 to 21:00. On that occasion, the Licensing and Regulatory Panel granted the consent as requested. The consent was issued for twelve months, and a copy of the decision was attached at Appendix 3 to the report.

Mr Hayer had applied to renew his Street Trading Consent in order that he might continue to sell hot food from his mobile unit known as Kebab Shack, located outside Khalsa Leamington Hockey Club, 10 Wise Street, Royal Leamington Spa. A Street Trading Consent was issued for twelve months. A copy of the application form along with supporting documents was attached at Appendix 1 to the report. A copy of the Council's Street Trading Policy was attached at Appendix 2 to the report.

On his application form, Mr Hayer had requested consent to trade from 06:00 to 23:00 Monday to Sunday. This was outside of the hours set out in Warwick District Council's Street Trading Consent Policy and therefore, the Licensing and Regulatory Panel needed to decide if these hours should be approved.

The Licensing team had received no complaints regarding this Street Trading Consent.

The Chairman invited the applicant to introduce the application. Mr Hayer advised that his business was quite new, and he was still trying to establish what hours would suit him best to make a good profit. He was wanting to try lunch time and evening hours, and based on how the business would perform, to then decide when to open.

In response to questions from the Panel, Mr Hayer advised that:

- the business was started the year prior, but he did not really start trading until April time, and he had only been opening on Fridays and Saturdays so far due to him also having another job;
- if facing the Kebab Shack from the car park, the area on the left was derelict, the boxing gym was in the corner of that plot and the hockey club was on the right-hand side;
- the location of the Kebab Shack was at the back of the car park, and the land belonged to the hockey club;
- there was no road behind the Kebab Shack, but there was an alleyway which was overgrown and not in use;
- with him playing hockey, he was able to negotiate a cheap rent at the current location;
- he was focussing his efforts in attracting customers through Uber Eats, and the main customers were deliveries;
- currently, customers were ordering around 8pm towards 9pm, which was why the application brought forward was for a later closing time, so that the Uber Eats clientele could be built up more. The club was also closing at 11pm on Fridays and Saturdays, hoping to pick up more customers from there too. Once Uber Eats was more established, Mr Hayer would try using other platforms such as Just Eat;
- he was now starting to see more customers from Kelsey's, following Mr Hayer introducing himself and giving out some menus, but he was not getting many passers-by;
- it was only the staff at Kelsey's that were using the Kebab Shack at the moment, and Mr Hayer was focussing his efforts to attract business via Uber Eats and Just Eat;
- those picking up the food were doing so mostly by car, but if using Deliveroo in the future, those would be by bicycle;
- at the moment, he was going inside the Khalsa Club 30 minutes before the closing time to take any final food orders. Mr Hayer intended to do the same should his licence be extended until 11pm;

- the trailer was of a substantial size which he had built himself from scratch, and closing down took a bit of time due to the fryers etc. needing to cool down; and
- there were not many residential neighbours, but further behind there were some student flats.

In answer to a question from the Licensing Team Leader, Mr Hayer clarified that roughly 60% of his business came via apps, and about 40% from Khalsa and a few other clients. With his application being from 6am, he had not yet planned if and how he would deliver breakfast, but he would definitely not be open from 6am to 11pm. Ideally, he would prefer to work at lunch time, but would want to experiment for five or six months and find out what would be most profitable.

In answer to a question from Councillor Illingworth, the Licensing Team Leader clarified that Mr Hayer was applying for static consent for trading within the car park, and the car park was considered the area of trading. In theory, he could bring the trailer at the front of the car park, within the red boundary of the application. Mr Hayer clarified that this was not a possibility due to the car park being used by the club on a regular basis.

Mr Hayer did not have anything to add when given the opportunity to make a final statement.

At 10.20am, the Chairman asked all parties other than the Panel, the Council's Legal Advisor, and the Civic & Committee Services Manager to leave the meeting, in order to enable the Panel to deliberate in private and reach its decision. The decision would be communicated in writing via email to the applicant later on the same day, followed by a written notice with a full decision within seven days.

Resolved that the application be **granted** as set out in the agenda. This was because no evidence was presented that the renewal of the consent, with extended days/hours of operation, would cause a public safety issue, public order issue or public nuisance. The Panel was also satisfied that there were no local area needs that required consideration.

(The meeting ended at 10.40am)

CHAIRMAN
20 February 2023

Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Tuesday 29 November 2022, at 10am.

Present: Councillors Boad, Roberts and Syson

Also Present: Emma Dudgeon (Licensing Enforcement Officer), Lesley Dury (Principal Committee Services Officer) and Sue Mullins (Council's Legal Advisor)

1. **Apologies and Substitutes**

Councillor Syson substituted for Councillor Leigh-Hunt.

2. **Appointment of Chairman**

Resolved that Councillor Boad be appointed as Chairman for the hearing.

3. **Declarations of Interest**

There were no declarations of interest.

4. **Objection to a Temporary Event Notice received under the Licensing Act 2003 for the Builders Arms, 38 Lansdowne Street, Royal Leamington Spa**

The Panel considered a report from Health & Community Protection which sought a decision on a Temporary Event Notice (TEN) for the Builders Arms, 38 Lansdowne Street, Royal Leamington Spa CV32 4SP. A representation had been received from Environmental Health in relation to this notice for the consideration of the Panel in the determination of the notice.

The Chairman introduced the Members of the Panel and the officers present. The Chairman noted that the applicant, Mr Cavan Fulton was not present at the meeting but had agreed that the TEN could be heard in his absence.

Warwick District Council's Environmental Protection Team Leader, Paulette Samuels introduced herself.

The Legal Advisor explained the procedure for the hearing.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the TEN for the Builders Arms should be granted.

Mr Fulton applied for a Temporary Event Notice for the Builders Arms, 38 Lansdowne Street, Royal Leamington Spa on 29 September 2022. The Temporary Event Notice submitted by the applicant was attached as Appendix 1 to the report.

The notice was to extend the hours already allowed in the premises licence for the sale of alcohol (on the premises only) and the provision of regulated entertainment from 18:00 hours on Saturday 17 December 2022 to 02:00 hours

on Sunday 18 December 2022. The applicant had indicated that the proposed event was a private party.

The current premises licence allowed the sale of alcohol from 09:00 hours until 01:00 hours on Friday and Saturday and from 09:00 hours until 00:00 from Sunday to Thursday. The TEN was therefore seeking to extend the time during which alcohol could be sold on Sunday 18 December from 00:00 hours to 02:00 hours.

In terms of regulated entertainment, the current premises licence allowed regulated entertainment between 12:00 hours and 00:00 hours from Fridays to Sundays. The TEN was therefore seeking to extend the time during which regulated entertainment could be provided on Sunday 18 December from 00:00 hours to 02:00 hours.

The Builders Arms currently held a premises licence issued under The Licensing Act 2003. When a premises licence was in place under The Licensing Act 2003 a panel was able to add conditions from that licence to a Temporary Event Notice as part of the decision. A copy of the current premises licence for The Builders Arms including all current conditions had been attached as Appendix 2 to the report.

Warwickshire Police and WDC Environmental Health had powers to object to a Temporary Event Notice where they were satisfied that allowing the premises to be used in accordance with this notice would undermine a licensing objective.

In accordance with section 105 of the Licensing Act 2003, the licensing authority had to hold a hearing to consider the objection unless the relevant person (i.e., the Police or Environmental Health whichever had objected) the premises user and Licensing Authority agreed that a hearing was unnecessary. The hearing must be concluded and notice of the decision given to the premises user and the Police, no later than 24 hours before the temporary event was due to commence.

The Licensing Department had received an objection from Environmental Health. Full details of the objection were attached as Appendix 3 to the report. It had not been agreed that a hearing would be unnecessary and therefore a Panel had to be held to make the decision.

In the evidence submitted by Environmental Health, it was stated that a TEN hearing took place and was refused on 31 October 2021. This was not the case; the TEN was refused because it was submitted outside of the required timeframe set out in the Licensing Act 2003. The TEN submitted in October 2021 was submitted by a different applicant.

A map showing the location of the premises and photos of the premises were attached as Appendix 4 to the report.

Mr Fulton had sent an email confirming that he was unable to attend the hearing but had submitted comments to be read out on his behalf.

The Chairman asked the Licensing Enforcement Officer to read out Mr Fulton's comments which were received the previous day. In the comments, Mr Fulton had explained that he had been unable to attend the hearing because of staffing issues caused by sickness. He only took over the pub on 21 June 2022 and was not involved whatsoever in events that transpired before then. He did not wish

for previous problems caused by TENS in the past to continue. The Licensing Enforcement Officer confirmed that having checked records, Mr Fulton became the Licence Holder and DPS officially on 4 April 2022.

The Chairman asked the Environmental Protection Team Leader to make their representation. She explained that a different member of the Environmental Health Team, the Environmental Protection Technical Officer had led on this case but because of personal reasons, had been unable to be physically present at the hearing. She stated that she had an open line by telephone with Stacey Walsham, the Environmental Protection Technical Officer if she needed guidance.

The Environmental Protection Team Leader explained that on receipt of the TEN, officers in Environmental Protection searched for evidence of previous complaints in the last six to 12 months. The officer then explained that despite the previous refusal of the TEN in 2021, the applicant at that time had proceeded to hold the event and there were witnesses to very loud noise resulting from the event at 01:45 hours. Whilst the applicant for the current TEN was a different person, it was still for an event at the same premises and the current applicant had not tried to engage with the Environmental Protection officers subsequent to the objection being lodged in response to the application. There had been some other complaints made about the premises, but the complainants had not pushed through their complaints necessitating investigation of statutory noise nuisance.

The Environmental Protection Team Leader stated that visits had taken place. In March at 22:00 hours a visit was made but nothing was observed. The premises were being monitored just the same as other premises would be.

Environmental Protection officers were concerned that the applicant would not comply with the conditions laid down because of past experience with the event in October 2021 and because the applicant had failed to engage with officers subsequent to the objection being made. The additional two hours requested on the TEN would lead to further nuisance to local residents.

In response to a point raised by Councillor Syson, the Licensing Enforcement Officer confirmed that the applicant was seeking to extend regulated entertainment by two hours, but the current premises licence allowed for sale of alcohol until 01:00 hours, so the requested extension on this was for one hour.

In response to questions from the Panel, the Environmental Protection Team Leader explained that:

- She had not made a visit to the premises but knew of it.
- There was no longer an out of hours noise service operated by the Council. She did not believe that a visit had been scheduled for officers to visit the Builders Arms on the night of the event being applied for. Sometimes when there was a Licensing Enforcement visit taking place, Environmental Protection officers would work with Licensing Enforcement. She did not have the timetable for December for enforcement visits.
- Hypothetically, should the TEN be granted and noise was an issue, the process was that action would require a complaint being submitted by a member of the public for the noise issue to become evident. It was unlikely that any patrol by Council officers would bring the issue to light.
- When a complaint was received, the complainant would be expected to engage with Environmental Health officers and to keep diary sheets and keeping in touch possibly through the Council's "noise app". The two

complaints received about the premises that had not been followed through were because the complainants had not engaged further with the Council. It was unknown why the complainants had not followed up their complaints.

- She did not know what provision the premises had for smokers. The Licensing Enforcement Officer explained that she believed that the alley at the side of the shops was used by smokers.
- It was not known how ventilation was achieved since windows and doors were not allowed to be left open.

The Licensing Enforcement Officer explained that the Panel could only impose conditions on the TEN that were already imposed under the current premises licence. Therefore, it would not be possible to stipulate door staff had to be present. The Environmental Protection Team Leader confirmed that drinkers and smokers outside were required to move indoors at 23:00 hours.

When a TEN was submitted, it would be automatically sent to the Police and to Environmental Health. The Licensing Enforcement Officer confirmed that the Police had not made a representation to this application.

The Panel noted that the area surrounding the Builders Arms had a lot of residents.

At 10.31am, the Chairman asked all parties other than the Panel, the Council's Legal Advisor, and the Principal Committee Services Officer to leave the meeting, in order to enable the Panel to deliberate in private and reach its decision. The decision would be sent to the applicant by email.

Resolved that a counter notice for the event be issued to prevent the event taking place.

It was resolved to issue a counter notice under Section 105(2) of the Licensing Act because Members of the Panel considered it appropriate for the promotion of the Licensing Objective of the Prevention of Public Nuisance for the following reasons: Allowing the premises to extend its hours had the potential to result in nuisance to local residents due to the sound of amplified music and voices escaping from the premises, as well as when persons were leaving the premises following the event.

(The meeting ended at 11.00am)

CHAIRMAN
20 February 2023

Title: Extension of current Public Space Protection Orders

Lead Officers: Liz Young, Community Safety Manager and Lorna Hudson,
Licensing and Regulatory Manager

Portfolio Holder: Councillor Judy Falp

Wards of the District directly affected: All

Approvals required	Date	Name
Portfolio Holder	08/02/23	Cllr Judy Falp
Finance	08/02/23	Andrew Rollins
Legal Services		
Chief Executive	08/02/23	Chris Elliott
Head of Service(s)	08/02/23	Marianne Rolfe
Section 151 Officer	08/02/23	
Monitoring Officer	08/02/23	Andy Jones
Leadership Co-ordination Group	08/02/23	
Final decision by this Committee or rec to another Cttee / Council?	Yes	
Contrary to Policy / Budget framework?	No	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	No	
Accessibility Checked?	Yes/No	

Summary

The district's Public Space Protection Orders (PSPOs) expire October 2023. Before introducing, extending, varying, or discharging a PSPO, there are requirements under the ASB, Crime and Policing Act 2014 regarding consultation, publicity, and notification.

Due to the May Elections, there would be insufficient time to carry out the full review process, and necessary consultations, and have the renewed Orders in place by October 2023.

Recommendations

- (1) The Licensing & Regulatory Committee agree to the council seeking approval for consultation on extending the Orders, in their current form, unamended, for three years (in line with the legislation).
- (2) The Licensing & Regulatory Committee support the early start of the review of the renewed PSPOs in 2024.

1 Reasons for the Recommendations

- 1.1 Where PSPOs are varied, extended, or discharged, there are statutory requirements regarding publishing or publicising this and councils are required to undertake a consultation process.
- 1.2 For the extending or discharge of orders, the guidance states that any such proposals must be publicised only. In other words, there is not the requirement for the same extensive consultation as would be required for any new or varied Orders.
- 1.3 Local authorities are required to consult with key stakeholders: the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. Any county councils (where the Order is being made by a district), parish or community councils that are in the proposed area covered by the PSPO must also be notified. 'Community representatives' are defined broadly in the Act as 'any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area'.
- 1.4 Over the last three years there have been, and continue to be, significant changes in terms of physical developments and change of land use across the district. Some areas are currently covered by PSPOs and there are plans in progress which potentially bring new areas under the scope of the current orders or may require the introduction of specific ones according to the nature and usage of the space.
- 1.5 Because of these major developments, the review of the PSPOs necessitates a full, detailed, and widespread public consultation, allowing appropriate consideration of all the issues, supported by a robust evidence base.
- 1.6 Due to the elections in May, this committee would be unable to meet before early summer to approve a public consultation for any proposals on extension, variation, or discharge of the Orders. The public consultation is required to take

at least six weeks, after which the outcomes would be evaluated for the drafting of final proposals, to be brought back to this committee in early Autumn for consideration. At which point there is a risk that agreement may not be reached.

- 1.7 The PSPO Guidance states *'There are no statutory requirements about the length of the consultation process. However, it should be ensured that its duration allows sufficient time to meaningfully engage with all those who may be impacted by the Order, taking into account for instance any holiday periods that may affect response rates – this may take several weeks or even months. Some issues may require time to fully explore and understand – councils should not be reluctant to extend the initial consultation period if it is clear that this would be beneficial in the longer-term.'*
- 1.8 The PSPO Officer Working Group (that was established for the last review in 2020) re-convened in October 2022. In drawing up the project plan and communications plan, they concluded that there would be insufficient time to carry out the full review process to meet the October 2023 deadline. They also concluded that further evidence gathering was required, in particular from the council and the police, to inform subsequent reviews and consultations on PSPOs. In addition to the identification of timeline issues, deferring the review to 2024 would allow time for gathering accurate data and developing a more robust evidence base to allow consultees a more informed choice.
- 1.9 Allowing the current PSPOs to lapse without extending them could result in a recurrence of the activities that are detrimental to the quality of life of people who live, visit or work in the district.
- 1.10 The PSPOs currently in place (renewed October 2020) are:
- **Intoxicating Substances (includes alcohol)** – this is a district wide order, making it an offence for a person 'without reasonable excuse' to breach the PSPO in terms of ingestion, inhalation, injection, smoking or otherwise use of an intoxicating substance.
 - **Dogs**– Warwick District Council already has 4 dog-related (PSPO) orders in place, which are summarised as follows:
 1. The Fouling of Land by Dogs (Warwick District Council) Order 2020
A person in charge of a dog must ensure they remove faeces deposited by their dog from any land to which the public have access and which is open to the air (including land which is covered but open to the air on at least one side).
 2. The Dogs on Leads (Warwick District Council) Order 2020
A person in charge of a dog must always keep a dog on a lead in the following areas:
Jephson Gardens, Royal Leamington Spa
Leamington Cemetery
Milverton Cemetery
Warwick Cemetery
Kenilworth Cemetery
The length of the public footpath (L9a) as it crosses Newbold Comyn Golf Course, Royal Leamington Spa
All other sport grounds, fields, and pitches not subject to the Dogs Exclusion (Warwick District Council) Order 2011, when in use for authorised sporting facilities.

3. The Dogs on Leads by Direction (Warwick District Council) Order 2020
If a dog is out of control and causing a nuisance, a person in charge of a dog must put and keep a dog on a lead when told to do so by an authorised officer.

4. The Dogs Exclusion (Warwick District Council) Order 2020
A person in charge of a dog must not take a dog on or off a lead into any of the following areas:
Any clearly demarcated children's play areas (PDF), paddling pool, bowling green, multi-use game area, tennis court, or putting green signed as a "dog exclusion zone" (whether the sign uses those particular words and/or symbols having like effect)
The main racetrack surface at Warwick Racecourse except when directly crossing the track either way at the designated public access points*
Mid-Warwickshire (Oakley Wood) Crematorium (excluding the car park areas when used to directly access Oakley Wood)

1.11 The proposed revised timetable for carrying out the review is set out below:

Action	Date	Detail
Officer Group Meetings	January - February 2024	Continue review of existing orders – assessing impacts/effectiveness. Consider evidence and data available. Discuss any issues that have arisen. Consider any potential variations. Consider possibility of new areas coming under Orders. Draft proposals for extension, variation, or discharge to recommend to committee for consultation
Development of Communications Plan	January 2024	Consultation planning Media management Risk mitigation
Report to Licensing & Regulatory	March 2024	Seeking approval to consult stakeholders/public on draft proposals
Carry out a 6-week stakeholder and wider public consultation	April – May 2024	In accordance with Communications Plan – online survey, focus groups/meetings
Officer Group Meetings	May - June 2024	Consider outcomes of consultation Agreement on final proposals to go back to committee
Report to Licensing & Regulatory	L&R committee date TBC – July 2024	Seeking approval on the final proposals for the renewed PSPOs
Implementation of Renewed PSPOs	August – October 2024	Notification to stakeholders/public in accordance with Communications Plan Updated and/or new signage installed

Subject to approval of the recommendations, a further report can be brought to this committee in July detailing the outcomes of the key stakeholder consultation and a finalised timetable for the review in 2024.

2 Alternative Options

- 2.1 The review could be carried out this year, however the process would have to be compressed and consultation time reduced to meet report deadlines and have renewed orders in place before they expire. It could be perceived by the public that the process is being rushed through, and responses to the consultation could be reduced due to it taking place during peak summer holidays.
- 2.2 The review goes ahead this year, however the Dog related PSPO for Newbold Comyn would have to be reviewed again in 2024 following the completion of the cycle trail development on part of the old golf course which would require another consultation and therefore additional resources.
- 2.3 Not to extend/renew: This option is not recommended for the reasons highlighted in 1.9.

3 Legal Implications

- 3.1 The Anti-social Behaviour, Crime and Policing Act 2014 introduced several tools and powers for use by councils and their partners to address anti-social behaviour (ASB) in their local areas.
- 3.2 PSPOs are one of the tools available under the 2014 Act. These are wide-ranging and flexible powers for local authorities, which recognise that councils are often best placed to identify the broad and cumulative impact that ASB can have. The Act gives councils the authority to draft and implement PSPOs in response to the particular issues affecting their communities, provided certain criteria and legal tests are met.

4 Financial

- 4.1 There are no costs associated with this report but new and/or amended signage would be required for any Public Space Protection Orders which would be funded from the appropriate Community Safety budget.

5 Health and Wellbeing

- 5.1 PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

6 Risk Assessment

- 6.1 Not having valid PSPOs in place will have an impact on the Police and Council officers' ability to enforce drinking and drug associated anti-social behaviours and dog-related nuisance across the district. This may have a detrimental effect on the reputation of the Council by:
 - People drinking alcohol and taking intoxicating substances and engaging in anti-social behaviours as a result.
 - An increase in dog fouling
 - Nuisance dog behaviours, including, but not limited to, the requirement to place a dog on a lead
 - Dogs entering children's play areas, sports areas and marked pitches during activities
- 6.2 If a full review was attempted this year, there is a risk that agreement may not be reached on the final proposals which could result in the Orders lapsing.

7 Analysis of the effects on Equality

- 7.1 The government guidance on PSPO states that the restrictions of a PSPO can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. The PSPOs will apply to all individuals committing anti-social behaviour within the designated areas, without discrimination. No particular group should be disadvantaged through publicity or enforcement of the PSPOs. An Equality Impact Assessment will be conducted after any consultation.

8 Consultation

- 8.1 The PAB for Safer Communities, Leisure, and Environment, which met on 17 January, considered a verbal report proposing extension of the existing PSPOs for reasons cited in this report, and postponement of the review to early 2024.
- 8.2 They agreed that there was insufficient time to conduct a full and appropriate consultation due to the elections this year. Therefore, their advice was that the Orders be extended in October 2023 on the proviso that a review process would be conducted in 2024.

Background papers:

Licensing & Regulatory Committee Report – 8 July 2020 - Consultation on the revision and renewal of the district's Public Space Protection Orders – Restricted Drinking Zones & Dog Control Orders

Supporting documents:

LGA Public Spaces Protection Orders – Guidance for Councils February 2018

Home Office Anti-Social Behaviour, Crime and Policing Act 2014: Anti-Social Behaviour Powers. Statutory Guidance for Frontline Professionals. Revised June 2022