

BABERGH DISTRICT COUNCIL

FROM: Head of Legal and Administrative Services

REPORT NUMBER **E173**

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 17 November 2005

LICENSING ACT 2003 – HEARING REPORT

1. SUMMARY

To determine an application under the 2003 Licensing Act made by:

Winlease Limited

in respect of:

Shoulder of Mutton, The Street, ASSINGTON CO10 5LJ

The hearing is to determine an application to vary an existing premises licence under section 35 of the Licensing Act 2003.

The hearing is to determine the variation application only, and the entitlements of the existing premises licence can not be reduced by the sub-committee in its determination of the variation application.

2. RECOMMENDATIONS

2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- to modify the conditions of the licence;
- to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

The sub-committee is able to determine the variation application.

3. THE APPLICATION

3.1 This application is made by the existing licence holders Winlease Limited in respect of the Shoulder of Mutton, ASSINGTON CO10 5LJ. The designated premises supervisor is Mr Keith George Braithwaite (who holds a Personal Alcohol Licence).

The conversion premises licence entitles the holder to the conversion entitlements of a justices' on-licence with supper hours extension. In brief, this authorises hours as follows (the final hour of supply of alcohol being for persons taking table meals):

Supply of alcohol and recorded music:

Monday to Saturday (10:00hrs until 00:00hrs midnight)

Sunday (12:00hrs until 23:30hrs)

The variation submitted, and subject to this hearing, requests to remove existing embedded restrictions under legislation specified by the Secretary of State (including the supper hour restrictions), extend the hours for the general sale of alcohol and extend the extent of regulated entertainment activities at the public house. The opening hours proposed would see the premises opening until 00:00midnight on Monday to Thursday and 23:30 Sundays (which is the existing entitlement) and until 00:30hrs on Friday and Saturday. Supply of alcohol would cease 30 minutes prior to closing, which identifies a period of wind-down and drinking up time.

- 3.2 The applicant has proposed with the variation no additional steps or measures that they intend to take to promote the four licensing objectives.
- 3.3 The variation application is attached as Appendix 1. The required statutory advertisements have been published and displayed, and the applicant has confirmed that they have served a copy of the application on all relevant Responsible Authorities:

RESPONSIBLE AUTHORITY:	REPRESENTATION:
1. Chief Officer of Police	
2. Local Fire Authority	
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	<i>Comments only – attached for clarification at Appendix 2</i>
4. Environmental Health	<i>Comments only – attached for clarification at Appendix 2</i>
5. Local Planning Authority	<i>Comments only – attached for clarification at Appendix 2</i>
6. Area Child Protection Committee	
7. Any other Licensing Authority	
8. Trading Standards	
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	

Note: No representation has been received from any responsible authority.

- 3.3 Representations have been received from the following interested parties. These have been considered relevant, as agreed by the applicant’s solicitor, as the statutory notice displayed an incorrect closing date for representations to be made by:

- **Mr Mark Johnston-Wood, The Old Post Office, The Street, ASSINGTON CO10 5LJ**
- **R.Murrell, 12 The Street, ASSINGTON CO10 5LJ**
- **J.J.Brown, Mayes Green, The Street, ASSINGTON CO10 5LJ.**
- **Mr Ian White, Lippitts House, The Street, ASSINGTON CO10 5LJ**

A copy of any representations, and responsible authority comments, are attached as Appendix 2.

4. GUIDANCE AND POLICY CONSIDERATIONS

- 4.1 The sub-committee is referred to section 6 – ‘Hours of Trading’ and section 7 – ‘Conditions Attached to Premises Licences and Club Premises Certificates’, and also Annexes D to H, of Central Government Guidance in respect of this application.
- 4.2 The sub-committee is referred to sections 1, 6, 7, 9, 10, 14 and 20 of the Council’s Statement of Licensing Policy in respect of this application.

5. THE ISSUE(S)

- 5.1 The Licensing Act 2003 introduces a new licensing regime. The four underlying objectives of the regime are:

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

These are the only grounds upon which an application may be refused, or if deemed necessary, conditions may be modified on the licence.

- 5.2 Members will note that the main issue here is:

- Balancing the interests of owners, employees, customers and neighbours of licensable premises.

6. PROCEDURE TO BE FOLLOWED AT HEARING

- 6.1 A copy of the ‘Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received’ is attached to the Agenda.

7. APPENDICES

- (a) Appendix 1 - Application
- (b) Appendix 2 - Representations
- (c) Appendix 3 - Site Plan showing location of Interested Party objectors.

8. BACKGROUND PAPERS REFERRED TO

None.

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