

AGENDA

Meeting: Northern Area Licensing Sub Committee
Place: Council Chamber - Council Offices, Monkton Park, Chippenham,
SN15 1ER
Date: Thursday 5 January 2012
Time: 10.30 am
Matter: **To determine an application for a review of a premises
licence in respect of the Borough Arms, Malmesbury**

Please direct any enquiries on this Agenda to Anna Thurman 01225 718379 or anna.thurman@wiltshire.gov.uk, of Democratic Services, County Hall, Bythesea Road, Trowbridge, BA14 8JN.

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Desna Allen
Cllr Liz Bryant

Cllr Rod Eaton

AGENDA

1. **Election of Chairman**

To elect a Chairman for the meeting of the Sub Committee.

2. **Procedure for the Meeting** *(Pages 1 - 8)*

The Chairman will explain the attached procedure for the members of the public present.

3. **Chairman's Announcements**

The Chairman will give details of the exits to be used in the event of an emergency.

4. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

5. **Licensing Application**

To determine an application for a Review of a Premises Licence in respect of the Borough Arms, 7 Oxford Street, Malmesbury, Wiltshire, made by Ms L Penfold, a local resident living in the vicinity of the premises.

5.a **Licensing Sub - Committee Report** *(Pages 9 - 12)*

5.b **Appendix 1 - Current Premises Licence** *(Pages 13 - 16)*

5.c **Appendix 2 - Application for Review by Ms L Penfold** *(Pages 17 - 24)*

5.d **Appendix 3 - Copies of Relevant Representations** *(Pages 25 - 26)*

5.e **Appendix 4 - Location Plan of the Premises and the Surrounding Area** *(Pages 27 - 28)*

5.f **Appendix 5 - List of other Licensed Premises in Malmesbury** *(Pages 29 - 30)*

LICENSING COMMITTEE

PROCEDURAL RULES FOR THE HEARING OF LICENSING ACT 2003 APPLICATIONS

1 Purpose

- 1.1 These rules have been prepared to facilitate proper consideration of licence applications, made under the Licensing Act 2003, by the Licensing Committee and its Sub Committees.
- 1.2 The rules set out a framework for how applications are to be heard and explain the role of the participants at the Hearing.

2 Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Hearing:

“Applicant” means the person who has submitted an Application for consideration by the Committee.

“Applicant’s Premises” means premises subject to the Application.

“Applicant’s Representative” means a person attending a Hearing to assist or represent an Applicant including a lawyer.

“Application” means an application for the Grant/Variation/Transfer/Review and any other decision to be made by the Committee/Sub-Committee in respect of a Licence.

“Chairperson” means the Member who is the Chairperson of the Committee for the particular Hearing.

“Committee” means the Council’s Licensing Committee and includes any Sub Committee of the Licensing Committee.

“Committee Lawyer” means the Council’s Lawyer (including an external Lawyer instructed by the Council’s Legal & Democratic Services Manager) who is present at a Hearing to advise the Chairperson and the Members.

“Committee Manager” means the Council’s Officer who is present at a Hearing to take minutes.

“Committee Report” means the Licensing Officer’s written report to the Committee concerning an Application, a copy of which has been previously made available to the Applicant or their Representative, a Responsible Authority or their Representative or an Interested Party or their Representative.

“Hearing” means a meeting of the Committee at which an Application is considered.

“Licence” means a Licence which the Committee has the power or duty inter alia to grant, transfer, suspend or revoke.

“Licensing Officer” means the Council’s Licensing Officer(s) who is/are present at a Hearing to present reports in respect of an Application and to give technical advice in respect of an Application to the Committee when requested.

“Licensing Authority” the Council in whose geographical area the subject matter of the Application relates to, and includes the Council’s Licensing Committee, any Sub Committee of the Licensing Committee and a Licensing Officer.

“Member” means a Member who is a Member of the Committee that is considering an Application.

“Responsible Authority” means a person who is present at a Hearing to make representations in respect of an Application in their capacity as Responsible Authority and includes any person who is present to assist or make representations on behalf of the Responsible Authority including a Lawyer.

“Interested Party” means a person who is present at a Hearing to make representations in respect of an Application in their capacity as an Interested Party, and includes any person who is present to assist or make representations on behalf of the Interested Party including a Lawyer.

3 Key Principles

- 3.1 The principles of ‘natural justice’, and Article 6 ‘Right to a Fair Trial’, which is one of the Convention Rights in the Human Rights Act 1998, require that there is a fair Hearing of Applications.
- 3.2 Natural justice is an umbrella term for the legal standards of basic fairness. This will include that:
 - 3.2.1 the Applicant has an opportunity to make representations before a decision is made;
 - 3.2.2 those making representations have an opportunity to voice their representations before a decision is made;

- 3.2.3 the Applicant has an adequate opportunity to consider and respond to any submissions made by a Responsible Authority/Authorities and/or an Interested Party/Parties;
- 3.2.4 the Committee does not exclude an Applicant from a Hearing in order to consider submissions from a Responsible Authority/Authorities and/or an Interested Party/Parties.
- 3.3 It is also fundamental that there is an orderly presentation of submissions at a Hearing so that the relevant issues are properly understood, evidence is tested and that oral statements made at the Hearing are accurately recorded.
- 3.4 Ultimately the Chairperson determines the application of these rules, having regard to any submissions being made by those present and in particular the Committee Lawyer.

4 The Hearing

- 4.1 The Hearing shall take place in public.
 - 4.1.1 The Committee may exclude the public from all or part of the Hearing where it considers it to be in the public interest to do so and, in accordance with the Local Government (Access to Information) Act 1985, as amended. Public includes a party and any person assisting or representing a party.
 - 4.1.2 The Committee may require any person attending the Hearing who, in its opinion, is behaving in a disruptive manner, to leave the Hearing and may:
 - a refuse to permit them to return;
 - b permit them to return only on such conditions as the Committee may specify;
 - c in the event that a person is required to leave a Hearing that person may, before the end of the Hearing, submit to the Committee in writing any information which they would have given orally.
- 4.2 Prior to the Hearing commencing, the Chairperson shall advise the parties of the procedure it proposes to follow at the Hearing.
- 4.3 Where a party has previously requested permission for a person(s), other than their representative, to appear at the Hearing then the Committee shall consider whether to permit that request.
- 4.4 The Committee will allow the parties an equal maximum period of time in which to exercise their rights.

- 4.5 This equal maximum time may have been notified in advance of the Hearing;
- 4.6 Where there is a multiple of Interested Parties who have attended the Hearing to make the same representation then the Committee would normally require that a spokesperson be appointed by them to make the representations on behalf of all of those Interested Parties.

5 Presentation of Submissions

- 5.1 The Chairperson will introduce the Application.
 - 5.2 In the event that the Licensing Authority has given notice to a party requiring clarification on a point(s) then that party shall respond to the points raised by the Licensing Authority.
 - 5.3 Submissions shall be made in the following order unless the Chairperson directs otherwise:
 - 5.3.1 The Licensing Officer will orally present the Committee Report and will in particular advise the Committee as to:
 - a the options available to it;
 - b the considerations that are relevant in reaching its decision.
 - 5.3.2 The Review Applicant (or the Applicant's Representative) will orally present its submission which may include:
 - a presenting their case in accordance with the papers, which will have been circulated with Agenda papers;
 - b confirming key information and answer pertinent questions; and
 - c calling witnesses in support of the Application (see paragraph 4.3).
- A Responsible Authority/Authorities and/or an Interested Party/Parties will orally present their representations in turn which shall include:
- a the grounds of the representation to the Application; and
 - b any condition(s) that the Responsible Authority/Authorities and/or an Interested Party/Parties would be happy to have the Application granted subject to which would cause the representation to be withdrawn.
- The Premises Licence Holder and/or their representative will orally present their representations which shall include;
- a The response to the representations made by the Review Applicant, a Responsible Authority/Authorities and/or an Interested Party/Parties; and

- b Whether they would be happy to accept any modifications to the Licence as suggested by the Review Applicant, a Responsible Authority/Authorities and/or an Interested Party/Parties.

6 Questioning of Submissions

- 6.1 The Chairperson will regulate the order in which questions are asked by Members.
- 6.2 The Chairperson and Members, voiced through the Chairperson, may question any party following the completion of their submission.
- 6.3 The Chairperson will normally permit the Applicant, a Responsible Authority/Authorities or an Interested Party/Parties to ask questions through them of the other parties.
- 6.4 The Chairperson may direct that questions which are not relevant to the Application or one of the four Licensing Objectives are not formally put or answered.

7 Documentation

- 7.1 No party shall present new documentation to the Committee at the Hearing other than with the consent of all of the other parties. This does not preclude the Licensing Officer from correcting errors, providing updated information or an extract from a local map showing the Applicant's Premises in the context of the surrounding premises and any Interested Party's premises. If any party is granted permission to present supplementary papers at the Hearing they shall provide at least 10 copies at the start of their submission.

8 Intervention

The Chairperson shall permit the following interventions at any point in the Hearing:

- 8.1 The Committee Lawyer to advise the Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairperson may require the Committee, the Committee Lawyer and the Committee Manager to leave the Hearing so that advice can be given.
- 8.2 The Committee Manager to advise the Committee on procedure generally, or to request that statements made are repeated for reasons of clarity and so that they can be properly recorded.
- 8.3 The Licensing Officer to seek to clarify statements that have been made in light of information held on their file.

9 Failure of Parties to Attend Hearing

- 9.1 If a party has informed the Licensing Authority that it does not intend to attend or be represented at a Hearing, the Hearing may proceed in its absence.
- 9.2 If a party has not indicated that it does not intend to attend or be represented at a Hearing and fails to attend or be represented at the Hearing then the Licensing Authority may:
 - 9.2.1 where it considers it be necessary in the public interest, adjourn the Hearing to a specified date; or
 - 9.2.2 hold the Hearing in the party's absence.
- 9.3 Where the Licensing Authority holds a Hearing in the absence of a party, it shall consider at the Hearing the application, representations or notice made by that party.

10 Closing Submissions

- 10.1 The Chairperson shall allow first, the Responsible Authority/Authorities and the Interested Party/Parties to make a closing oral submission(s) and secondly invite the Applicant or the Applicant's Representative an opportunity to make an oral closing submission in support of the Application.

11 Decision

- 11.1 The Committee, the Committee Lawyer and the Committee Manager, shall retire so that the decision may be considered in private, and to consider any legal issues raised by the Members.
- 11.2 The decision, and reasons for the decision, of the Committee shall be communicated orally by the Chairperson to the parties after the Committee has deliberated in private on the Application.
- 11.3 Written reasons shall be provided soon after the deliberations of the Application and in any event within the statutory time limits.

Review Hearing Procedure Summary

1. The Chairperson welcomes all those present and introduces the Application.
2. The Chairperson invites the Sub-Committee Members, Council Officers, the Review Applicant and/or their representative, any Responsible Authorities and/or Interested Parties and the Premises Licence Holder and/or their representative to introduce themselves.
3. The Chairperson outlines the Hearing Procedure.
4. The Licensing Officer presents the Committee Report and outlines the application.
5. The Review Applicant and/or their representative address the Sub-Committee to present their case.
6. Questions to the Review Applicant by Members of the Sub-Committee, any Responsible Authorities and/or Interested Parties and the Premises Licence Holder.
7. Responsible Authorities and/or Interested Parties who have made relevant representations address the Sub-Committee.
8. Questions to any of the Responsible Authorities and/or Interested Parties by Members of the Sub-Committee, the Review Applicant and the Premises Licence Holder.
9. The Premises Licence Holder and/or their representative address the Sub-Committee to present their case.
10. Questions to the Premises Licence Holder by Members of the Sub-Committee, any Responsible Authorities and/or Interested Parties and the Review Applicant.
11. Summing up by the Responsible Authorities and/or Interested Parties who have made relevant representations.
12. Summing up by the Premises Licence Holder.
13. Summing up by the Review Applicant.
14. The Sub-Committee retires with the Committee Lawyer and Committee Manager to consider its decision.
15. Sub-Committee returns and the Lawyer gives a summary of any legal advice that may have been given to the Sub-Committee, and invites the parties present to make any comments on that advice.
16. The Chairperson either gives the decision with reasons, or advises that it will be released in writing with reasons within the statutory time limits.

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WILTSHIRE COUNCIL

NORTHERN AREA LICENSING SUB COMMITTEE

DATE OF MEETING 5th January 2012

Application for Review of a Premises Licence; Borough Arms, 7 Oxford Street, Malmesbury, Wiltshire, SN16 9AX

1. Purpose of Report

- 1.1 To determine an application for a Review of a Premises Licence in respect of the Borough Arms, 7 Oxford Street, Malmesbury, Wiltshire, made by Ms L Penfold, a local resident living in the vicinity of the premises.

2. Background Information

- 2.1 An application for the Review of the Borough Arms Premises Licence has been made by Ms L Penfold. Following advertisement of the application 7 relevant representations have also been received.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the review application and any representations received. In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such steps as it considers necessary for the promotion of the licensing objectives.
- 2.3 The licensing objectives are:
- i) The Prevention of Crime and Disorder;
 - ii) Public Safety;
 - iii) The Prevention of Public Nuisance; and
 - iv) The Protection of Children from Harm.
- 2.4 Such steps are:
- i) To modify the conditions of the licence.
 - ii) To exclude a licensable activity from the scope of the licence.
 - iii) To remove the designated premises supervisor.
 - iv) To suspend the licence for a period not exceeding three months.
 - v) To revoke the licence.
 - vi) To determine that no steps are necessary

Government Guidance issued under s.182 of the Licensing Act 2003 states that:

“Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of

the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives”

- 2.5 The premise benefits from a Premises Licence issued under the Licensing Act 2003 since 24th November 2005 and this is attached as **Appendix 1**.
- 2.6 Ms K Driscoll held the premises licences in partnership with Mr J Driscoll until September 2008 when the licence was transferred and is now held by Ms K Driscoll and Ms G Riggs.
- 2.7 Since 2008 a number of complaints have been received by Wiltshire Council Public Protection Noise and Licensing Teams from local residents regarding noise nuisance from the premises, and disturbance caused by patrons in and around the premises. Complaints have also related to antisocial behaviour of patrons on entering and leaving the premises and on their way home from the premises.

3. Details of the Grounds for Review

- 3.1 The review of the licence has been requested on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives. The grounds for review are:
 - Prevention of Crime and Disorder: the patrons of the premises stand and drink on the street, fight, break windows and behave in a threatening manner
 - Public Safety: the patrons of the premises stand in the street and present a danger to late night traffic.
 - Prevention of Public Nuisance: the noise levels from the premises and its patrons are very high.
- 3.2 The application for review is attached as **Appendix 2**

4. Consultation and Representations

- 4.1 The review process requires a public notice to be posted on the premises for a period of 28 days together with a copy of the notice posted at the offices of Wiltshire Council, Monkton Park, Chippenham. During the consultation period 7 relevant representations have been received. Four (4) from residents living in the vicinity of the premises (interested parties), one (1) from the local residents association, one (1) from a local Councillor and one (1) from Wiltshire Constabulary (responsible authority).

- Mr R Budgen Malmesbury & St Paul Without Residents' Assoc.
- Ms N Oughton 18 Cross Hayes, Malmesbury
- Mr B Wilson 20 Cross Hayes, Malmesbury
- Ms A Sykes Tower House, Oxford Street, Malmesbury
- Mr P Lindrea Old Brewery House, Market Cross, Malmesbury
- Cllr Simon Killane Elected Councillor
- Wiltshire Police Polebarn Road, Trowbridge, Wiltshire

The relevant representations are attached as **Appendix 3**

All representations support the issues raised in the application for review of the premises licence.

A location map of premises and surrounding area is attached as **Appendix 4**.

A list of other licensed premises in the town of Malmesbury and their hours for supply of alcohol is attached at **Appendix 5**.

- 4.2 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.
- 4.3 The representations included the following suggestions on how to address the concerns raised.
- Hours of opening are restricted to closure at 11pm on all nights of the week.
 - Licensee formally warned that disturbances of any kind will result in immediate withdrawal of the licence.
 - Withdrawal of the Licence.
 - Restriction on opening hours.
 - Revocation of the Licence.
 - Engage constructively with local police to address issues mentioned in representations.

5. Legal Implications

- 5.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

6. Officer Recommendations

- 6.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

7. Right of Appeal

- 7.1 It should be noted that the Premises Licence Holder, the party that applied for the review and any Responsible Authority or Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
- 7.2 The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.
- 7.3 The Premises Licence Holder and all Interested Parties have been informed of the date, time and location of the hearing and their right to attend and be represented.
-

Report Author: Mrs Jo Lloyd

Public Protection Officer (Licensing) North and West, jo.lloyd@wiltshire.gov.uk
Tel: 01249 706411

Date of report 8th December 2011

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- 1 Current Premises Licence**
- 2 Application for Review by Ms L Penfold**
- 3 Copies of Relevant Representations**
- 4 Location Plan of the premises and surrounding area**
- 5 List of other Licensed Premises in Malmesbury**

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LICENSING ACT 2003

PREMISES LICENCE

PREMISES LICENCE NUMBER: LN/003026 NL

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description	
The Borough Arms 7 Oxford Street	
Post Town Malmesbury	Post Code SN16 9AX
Telephone Number 01666 822806	

Licensable activities authorised by the Licence	The time the licence authorises the carrying out of licensable activities
a. Film	a. Sunday to Thursday 10.00 hrs to 23.30 hrs Friday to Saturday 10.00 hrs to 00.30 hrs
b. Indoor Sporting Events	b. Sunday to Thursday 10.00 hrs to 23.30 hrs Friday to Saturday 10.00 hrs to 00.30 hrs
c. Live Music	c. Sunday to Thursday 10.00 hrs to 23.30 hrs Friday to Saturday 10.00 hrs to 00.30 hrs
d. Recorded Music	d. Sunday to Thursday 10.00 hrs to 23.30 hrs Friday to Saturday 10.00 hrs to 00.30 hrs
e. Anything of a similar description to that falling within Live Music, Recorded Music, Performances of Dance	e. Sunday to Thursday 10.00 hrs to 23.30 hrs Friday to Saturday 10.00 hrs to 23.30 hrs
f. Provide Facilities for Making Music	f. Sunday to Thursday 10.00 hrs to 23.30 hrs Friday to Saturday 10.00 hrs to 23.30 hrs
g. Provide Facilities for Dancing	g. Sunday to Thursday 10.00 hrs to 23.30 hrs Friday to Saturday 10.00 hrs to 23.30 hrs
h. Provision of Late Night Refreshment	h. Sunday to Thursday 23.00 hrs to 00.30 hrs Friday to Saturday 23.00 hrs to 01.30 hrs
i. Supply of Alcohol - for consumption on the premises	i. Sunday to Thursday 10.00 hrs to 00.00 hrs Friday to Saturday 10.00 hrs to 01.00 hrs

Non Standard Timings	
Supply of Alcohol	Bank Holiday Weekends Sunday and Monday 10.00 hrs to 01.00 hrs 10.00 hrs on 31 st December until 01.00 hrs 2 nd January 24 th December until 30 th December inclusive 10.00 hrs to 01.00 hrs when the hours for the sale of alcohol are extended Regulated Entertainment shall cease 30 minutes before and Late Night Refreshment shall cease 30 minutes after last sale of alcohol permitted

The opening hours of the premises	
Sunday to Thursday	10.00 hrs to 00.30 hrs
Friday to Saturday	10.00 hrs to 01.30 hrs

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Name, (registered) address of holder of Premises Licence

Kathleen Driscoll
The Borough Arms
7 Oxford Street
Malmesbury
SN16 9AX

Geraldine Riggs
7 Pool Gastons Road
Malmesbury
SN16 0DE

Name of Designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol

Lee Newman

Personal Licence Number: LN/002498 NL

Licensing Authority: North Wiltshire District Council

State whether access to the premises by children is restricted or prohibited

Yes - The provisions of Section 145 of the Licensing Act 2003 apply

Licence Commencement Date

24th November 2005



.....
Environmental Health Manager
(the Officer appointed for this purpose)

Current Licence Date

1st September 2008



.....
Environmental Health Manager
(the Officer appointed for this purpose)



Environmental Health Licensing Section of North Wiltshire District Council, Community and Environment,
Monkton Park, Chippenham, Wiltshire, SN15 1ER
Tel. 01249 706555 www.northwilts.gov.uk

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ANNEX 1 - MANDATORY CONDITIONS

Door Supervision

Where this Premises Licence includes a condition that one or more individuals must be at the premises to carry out a security activity, those individuals who are present to guard against a, b or c must be licensed by the Security Industry Authority:

- a. Unauthorised access or occupation (eg through door supervision)
- b. Outbreaks of disorder
- c. Damage

Supply of Alcohol

Where this Licence authorises the supply of alcohol:

No supply of alcohol may be made under this licence:

- a. At a time when there is no Designated Premises Supervisor in respect of it
- b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended"

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a Personal Licence.

Exhibition of Films

Where this Licence authorises the exhibition of films:

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made:

- a. By the British Board of Film Classification (BBFC,) where the film has been classified by that Board
- b. By the Licensing Authority where no classification certificate has been granted by the BBFC or, where the Licensing Authority has notified the licence holder that section 20 (3) (b) (74 (3) (b) for clubs) of the Licensing Act 2003 applies to the film.

ANNEX 2A - CONVERTED CONDITIONS

None

ANNEX 2B - OPERATING SCHEDULE

PREVENTION PUBLIC NUISANCE

- No alcohol will be permitted to be taken from the premises in unsealed or open containers
- Notices are to be prominently displayed at all exits from the premises requesting that patrons respect the needs of people living in the area and to leave the area quietly.
- All windows are to be kept closed whenever regulated entertainment is taking place.
- No deliveries to or collections from the premises are to take place between 20.00hrs and 07.00hrs.

PUBLIC SAFETY

- Fire Fighting equipment, emergency lighting and means of escape in case of fire as detailed in the plan at Annex 4, shall be provided and maintained at all times.

PROTECTION OF CHILDREN FROM HARM

- A recognised proof of age, which includes a photograph, is to be required for anyone who appears to be under the age of 18 and who wishes to purchase or consume alcohol.
- A notice is to be prominently displayed outside the entrance to the premises detailing the restrictions on access to and use of the premises by persons under the age of 18 years.
- Children under the age of 16 are permitted in the area of the bar until 21.00 hrs and must be accompanied by a responsible adult.

PREVENTION OF CRIME AND DISORDER

- Staff will take all reasonable precautions to ensure that people entering the premises are not carrying illegal drugs.
- A minimum of one search of the premises is to be carried out each day when licensable activities are taking place for illegal drugs and drug paraphernalia.
- Should any person be found in possession of illegal drugs they are to be asked to leave the premises and the police informed as soon as practicable.
- All incidents involving the use of illegal drugs and/or criminal activity are to be reported to the police as soon as practicable.
- No promotion of alcoholic drinks designed to encourage excessive consumption may take place.

ANNEX 3 - HEARING

None

ANNEX 4 - PLANS

See Attached

RECEIVED

10 NOV 2011

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PUBLIC PROTECTION PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Lyn Penfold

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description The Borough Arms, 7 Oxford Street	
Post town Malmesbury	Post code (if known) SN16 9AX

Name of premises licence holder or club holding club premises certificate (if known)

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises

- 2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

Penfold

First names

Lyn

I am 18 years old or over

Please tick yes



Current postal address if different from premises address

8 Oxford Street

Post town

Malmesbury

Post Code

SN16 9AX

Daytime contact telephone number

[REDACTED]

E-mail address (optional)

[REDACTED]

(B) DETAILS OF OTHER APPLICANT

Name and address

Angela Sykes, The Tower House, Oxford Street, Malmesbury, SN16 9AX

Eileen MacAlister, 14 Cross Hayes, Malmesbury, SN16

Bill Wilson, 20 Cross Hayes, Malmesbury, SN16

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|-----------------------------------------|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

Prevention of crime and disorder: the clientele of the pub stand and drink on the street, have fights, break windows and behave in a threatening manner.

Public safety: the clientele of the pub stand in the street and present a danger to late night traffic.

Prevention of public nuisance: the noise levels from the pub and from its clients are very high indeed.

Further particulars are set out below.

Please provide as much information as possible to support the application
(please read guidance note 2)

The Borough Arms is a pub in Oxford Street in Malmesbury which is very popular with youngsters. Local police tell us that because of its late licensing hours on Fridays and Saturdays, it attracts people who first frequent other pubs with earlier closing times.

The landlords do not appear to exercise any control over their clientele, neither while the pub is open nor after closing time. As a result, in the small hours of Saturday and Sunday mornings the street is often full of people on the pavements and in the road; these people are always drinking, shouting and swearing. Fights occasionally break out and damage has been caused to neighbouring properties. This can continue until 2 a.m. and beyond.

The applicants have been threatened by these people. For example, I have telephoned my husband to warn him not to come home down Oxford Street while fighting was going on in the street. The neighbouring café (Amanda's) and the kitchen shop by the Market Cross had their windows broken. For several years windows on the empty property directly across from the pub have been boarded because of breakages (the property owner tells us) by drunken customers of the pub. As well as the noise and disturbance in the street, the noise from the pub itself is frequently unbearable. The volume at which the pub plays its music is very loud indeed, and the people's shouting is very disturbing. I and some of my neighbours, including the applicants from Tower House, have had to install secondary glazing to attenuate the noise, and despite shutting ourselves in the back of our house during these night time disturbances we find we are always aware of the noise and – when we do manage to get to sleep - we are woken up regularly by the noise these people make.

Sometimes cars will pick up people from the pub and the drivers will stop outside and sound their horn, regardless of the late hour. People spill out onto the street, which makes it dangerous for drivers. Visitors to my house have felt unsafe when leaving my house after a visit.

On Saturday and Sunday mornings it is not unusual to find half full beer glasses in the street, along with broken glass and rubbish; evidence of vomit is not uncommon. I have taken photographs which illustrate the problem, and I am happy to present these as evidence. I have recorded that:

- On 29th May 2011 after midnight there were about 30 people on the streets being very loud, and a car with registration WN03CUS was being loaded with musical equipment.
- On 25th June 2011 there was very loud music at the Borough Arms, which we could hear right through the house.

The applicants have called the police a number of times when the noise and/or threatening behaviour has been particularly bad. Police records will show the frequency of these calls. That said, not a weekend goes by without there being a problem so the absence of a call to the police or the absence of a written record does not signify a quiet night.

The problem is not new. Council records show that complaints were made in years gone by, and promises to improve were not kept; indeed letters of complaint drafted years ago could have been written today. We are filing an application for restricting the licensing hours at the Borough Arms and the Guildhall Bar with substantially the same complaint and substantially the same evidence. From our vantage point directly across the street, we see both pubs being treated by the young customers as a single hostelry, with customers constantly leaving one pub, entering the other and then congregating outside both pubs. Succeeding with an application to restrain the licence of one pub while leaving the other unaffected will simply transfer the problem. We believe that the reputation of the pubs have made this area of Malmesbury into a "no go" area. When my husband and I were planning to buy 8 Oxford Street a year ago, residents of Gloucester Road queried whether we really wanted to move into the

area. A number of premises in Oxford Street have been up for sale, and prospective buyers are reluctant to invest in this problem street. As a result, the area is becoming derelict.

We believe restricting the licence to 11 p.m. is essential for public safety, the prevention of crime and disorder, the prevention of public nuisance, an end to anti-social behaviour at anti-social hours and a general improvement in the quality of life in the area.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes


- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date 8 November 2011

Capacity *Applicant*

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) as above

Post town

Post Code

Telephone number (if any)

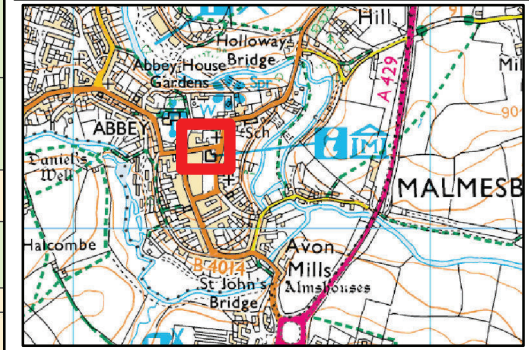
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) as above

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

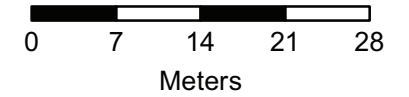
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The Borough Arms 7 Oxford Street Malmesbury

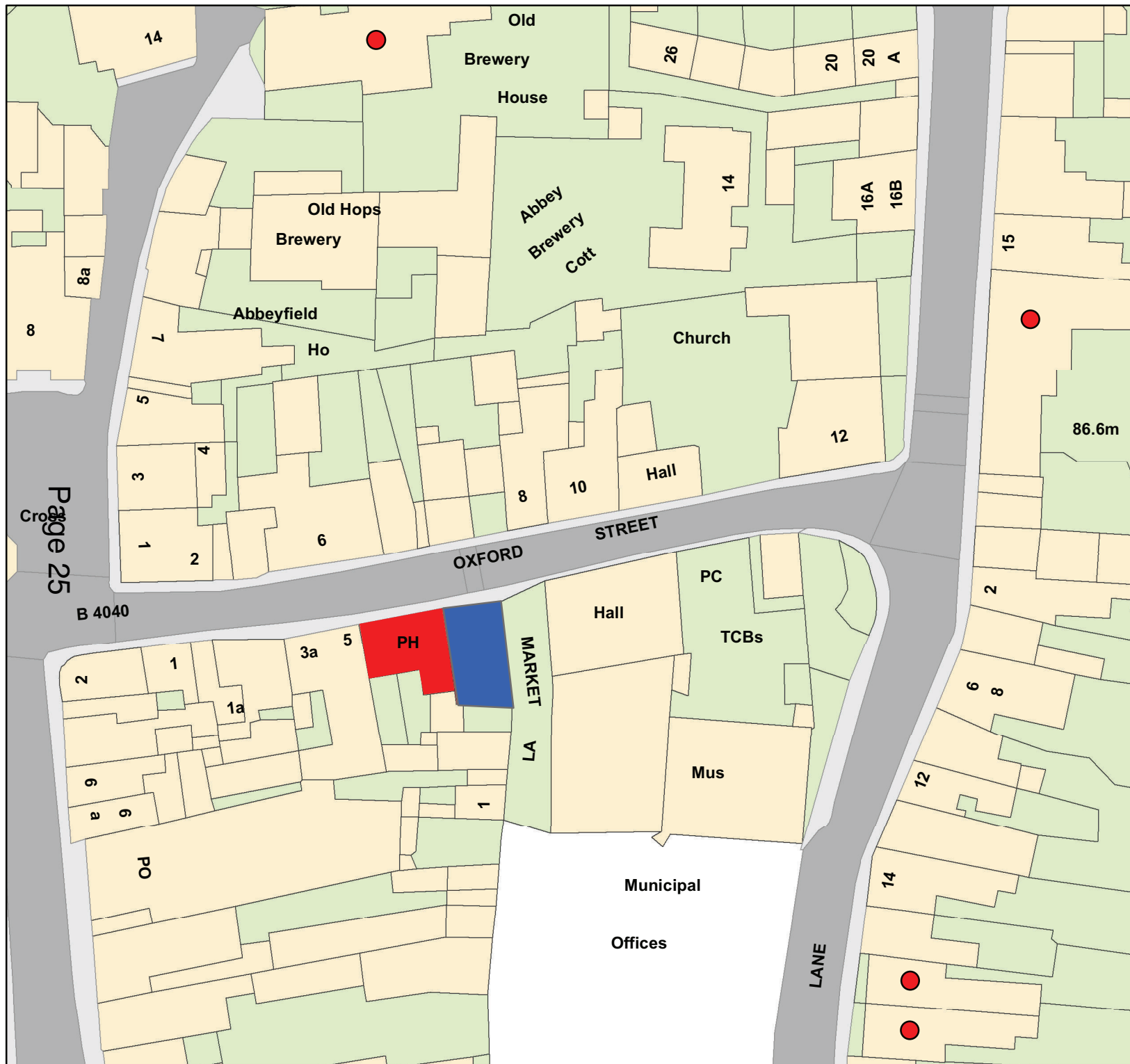


Scale

1:626



- The Borough Arms
- Guildhall Bar
- Interested Parties

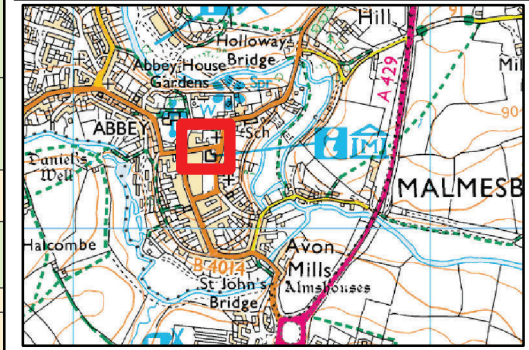


Wiltshire Council
Where everybody matters

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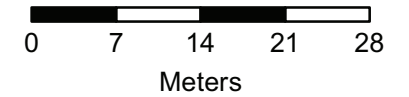
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The Borough Arms 7 Oxford Street Malmesbury

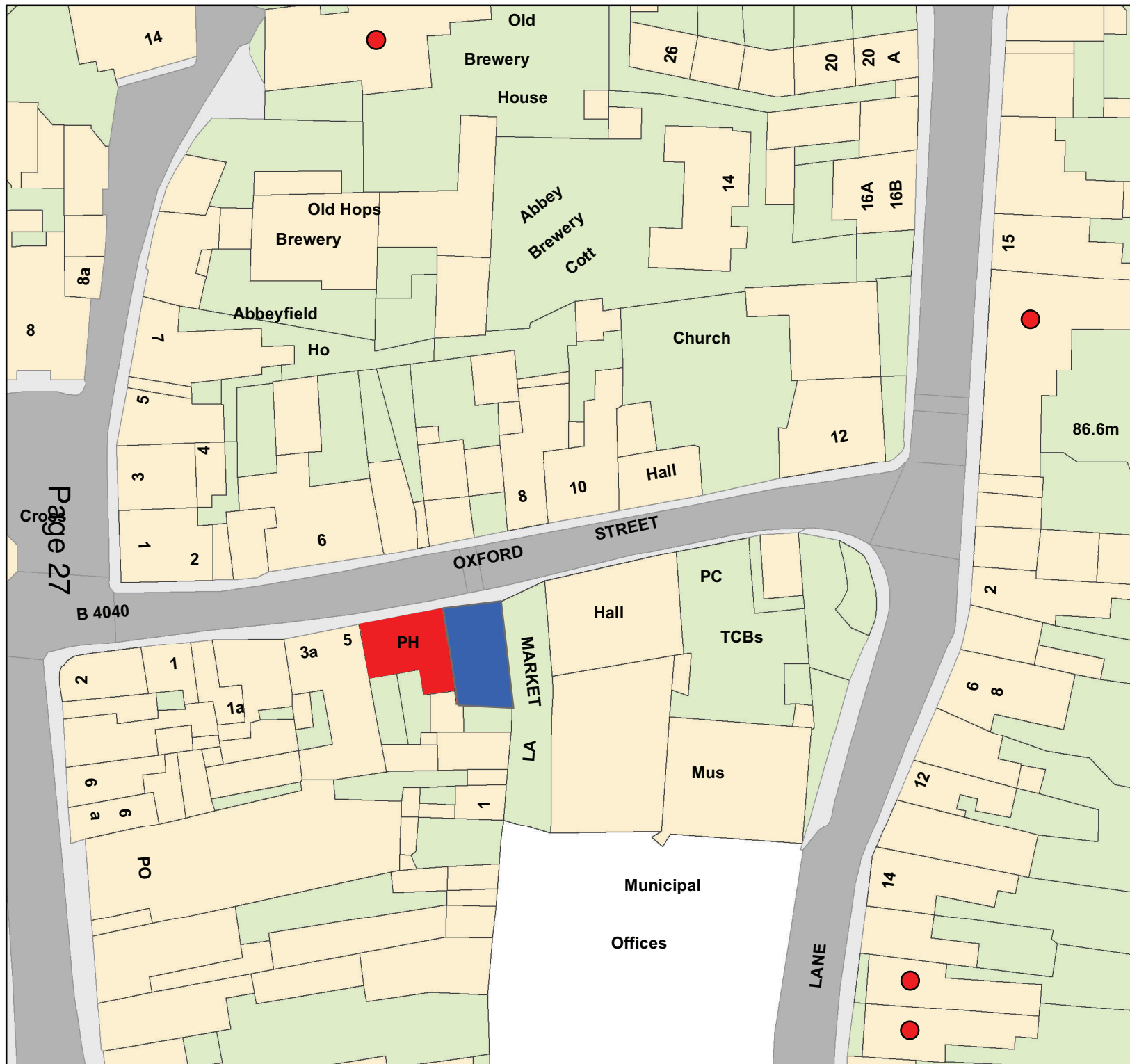


Scale

1:626



- The Borough Arms
- Guildhall Bar
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Agenda Item 5f

LICENSED PREMISES IN MALMESBURY

HOURS FOR SALE OF ALCOHOL

Kings Arms 29 High Street Malmesbury	Sunday to Saturday	10:00 – 01:00
Smoking Dog 62 High Street Malmesbury	Sunday Monday to Thursday Friday to Saturday	11:00 – 22:30 11:00 – 23:00 11:00 – 00:00
The Whole Hog 8 Market Cross Malmesbury	Sunday Monday to Thursday Friday to Saturday	12:00 – 23:00 11:00 – 23:00 11:00 – 00:00

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