

# WILTSHIRE COUNCIL

## NORTHERN AREA LICENSING SUB COMMITTEE

5 October 2018

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### Application for a Variation of a Premises Licence; Whitehall Garden Centre, Corsham Road, Lacock, Chippenham, SN15 2LZ

#### 1. Purpose of Report

- 1.1 To determine an application for a variation of a Premises Licence in respect of Whitehall Garden Centre, Corsham, Lacock, Chippenham made by Whitehall Garden Centre Ltd.

#### 2. Background Information

- 2.1 An application for a variation of a Premises Licence in respect of Whitehall Garden Centre, Lacock, Chippenham, has been made by Whitehall Garden Centre Ltd for which four relevant representations have been received.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the application having regard to the representations. In accordance with Section 35(3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers necessary for the promotion of the licensing objectives. In considering the application and the relevant representations, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy.
- 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 grant the licence as applied for.
  - ii) To modify the conditions of the licence.
  - iii) To reject the whole or part of the application.
- 2.5 On 10 August 2018, an application for a variation to the premises licence was received and accepted as a valid application.
- 2.6 The variation applied for is summarised as follows:

- To amend the current ON Sales hours to mirror those of the OFF Sales, 08:00hrs to 23:00hrs Monday to Saturday, 12:00hrs to 22:30hrs Sunday.
  - Include the Lavender Lodge for the sale of alcohol ON Sales.
  - Include the Ice Rink Café for sale of alcohol ON Sales – October to January.
  - To allow a pop up bar in the garden for ON Sales one weekend in April, May, June, July, August and September.
  - To remove the current Non Standard Timings for ON Sales;
    - a) On Good Friday, 12:00hrs to 22:30hrs.
    - b) On Christmas Day, 12:00hrs to 15:00hrs and 19:00hrs to 22:30hrs.
    - c) On New Year's Eve, (except on a Sunday) 10:00hrs to 23:00hrs.
    - d) On New Year's Eve (on a Sunday) 12:00hrs to 22:00hrs.
    - e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.
- For OFF Sales;
- a) Good Friday 08:00hrs to 22:30hrs
  - b) Christmas Day 12:00hrs to 15:00hrs - 19:00hrs to 22:30hrs

A copy of the application form is attached as **Appendix 1**. The plan is attached as **Appendix 1a**.

2.7 Whitehall Garden Centre has held a Premises Licence under the Licensing Act 2003 since 24 November 2005; this is attached as **Appendix 1b**.

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
<u>Provision of regulated entertainment</u>		
Live music Recorded music Performance of dance Anything of a similar description	10:30hrs to 17:00hrs 08:30hrs to 21:00hrs	Sunday Monday to Saturday
Retail of Alcohol <b>OFF</b> Sales	10:00hrs to 22:30hrs 08:00hrs to 23:00hrs	Sunday Monday to Saturday
Non Standard Timings	08:00hrs to 22:30hrs  12:00hrs to 15:00hrs 19:00hrs to 22:30hrs	Good Friday  Christmas Day
Retail of Alcohol <b>ON</b> Sales	12:00hrs to 22:30hrs 11:00hrs to 23:00hrs	Sunday Monday to Saturday
Non Standard Timings	12:00hrs to 22:30hrs  12:00hrs to 15:00hrs 19:00hrs to 22:30hrs	Good Friday  Christmas Day

The current Licence permits the Sale of Alcohol for ON Sales in the main restaurant and the Sale of Alcohol for OFF Sales from the Farm Shop.

- 2.8 During the consultation period the Applicant withdrew the request to allow pop up bars in the garden and agreed to further conditions being placed on their licence following conversation with both Wiltshire Council Licensing Authority and Wiltshire Police Licensing. These conditions are attached as **Appendix 2**.
- 2.9 A further amendment was made after the consultation period to reduce the hours permitted in the Ice Rink Café for the sale of alcohol to;
- Monday to Saturday 09:00hrs to 19:30hrs
  - Sunday 10:30hrs to 16:30hrs.

### 3. Consultation and Representations

3.1 The application process requires a public notice to be posted on the premises for a period of 28 days. During the consultation period four relevant representations have been received from Interested Parties.

#### 3.2 Responsible Authorities

No Responsible Authority has made a representation in connection with this application.

#### 3.3 Interested Parties

- Mr and Mrs C R Barrett, Wickfield, Corsham Road, Lacock, Chippenham, SN15 2LZ.
- Mrs J Briggs, Axfords Patch, Corsham Road, Lacock, Chippenham, SN15 2LZ.
- Mr and Mrs Newbury, Kent House, Corsham Road, Lacock, Chippenham, SN15 2LZ.
- Mrs S Atkins, Meadow View, Corsham Road, Lacock, Chippenham, SN15 2LZ.

3.4 A summary of the representations made is detailed in the table below:

<b>Representation</b>	<b>Licensing Objective</b>
Mr and Mrs Barrett	Prevention of Public Nuisance
Mrs J Briggs	Prevention of Public Nuisance
Mr and Mrs Newbury	Prevention of Public Nuisance
Mrs S Atkins	All Licensing Objections

3.5 The relevant representations are attached as **Appendix 3**. Attached as **Appendix 4** is a plan which shows the locations from where representations have been made. **Appendix 5** is a detailed plan of the area.

### 4. Legal Implications

4.1 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.

4.2 The Applicant and all Responsible Authorities and Interested Parties who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.

4.3 At the hearing all those Responsible Authorities and Interested Parties who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

## **5. Officer Recommendations**

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

## **6. Right of Appeal**

6.1 It should be noted that the Premises Licence Holder, and 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.

6.2 In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.

6.3 A Responsible Authority or an Interested Party may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by an Interested Party will not normally be granted within the first 12 months except for the most compelling circumstances.

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Report Author: Jemma Price

Public Protection Officer – Licensing  
Monkton Park, Chippenham, Wiltshire, SN15 1ER

Date of report: 25 September 2018

### **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 Variation Application**
  - a. Plan for New Locations**
  - b. Current Premises Licence**
- 2 Conditions agreed by Whitehall Garden Centre**
- 3 Representations**
- 4 Location of Representations**
- 5 Map of Area**