

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

6 AUGUST 2015

**Application for a Variation of a Premises Licence; The Pear Tree Inn,
Top Lane, Whitley, Melksham, Wiltshire, SN12 8QX**

1. Purpose of Report

- 1.1 To determine an application for a variation of a Premises Licence in respect of The Pear Tree Inn, Top Lane, Whitley, Melksham, Wiltshire, SN12 8QX made by Punch Taverns PLC.

2. Background Information

- 2.1 An application for a variation of a Premises Licence in respect of The Pear Tree Inn has been made by Punch taverns PLC for which five relevant representations and thirteen supporting 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 appropriate 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 12th June 2015 an application for a variation of the existing premises licence, was received and accepted as a valid application.
- 2.6 The variations applied for are summarised as follows:

Licensable Activity	Hours
Late Night Refreshment (indoors only) Non standard timings	23:00 hrs to 00:00 hrs daily Residents staying within the letting rooms and their bona fide guests will be permitted late night refreshment from 23:00 hrs to 05:00 hrs
Supply of Alcohol (on and off the premises) Non standard timings	10.00 hrs – 00.00 hrs daily Residents staying within the letting rooms and their bona fide guests will be permitted alcohol to be sold to them 24 hrs a day
Hours premises are open to the public Non standard timings	10.00 hrs – 00.30 hrs (the following day) daily Residents staying within the letting rooms and their bona fide guests will be permitted access to the premises 24hrs a day

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

- 2.7 Since November 2005, the premises benefits from a Premises Licence issued under the Licensing Act 2003. The original licence allows the following:-

Licensable Activity	Hours
Recorded Music	24 hrs a day
Alcohol Sales (on and off sales)	Monday to Saturday 11.00 hrs – 23.00 hrs Sunday 12.00 hrs – 22.30 hrs
Hours premises are open to the public	24 hrs a day

The current Premises Licence is attached as **Appendix 2**.

2.8 The other premises which are licensed for the sale of alcohol on and off the premises within the vicinity of the application address are detailed as follows:

Premises	Licensed Hours for Sale of Alcohol (on and off sales)	Days
Whitley Golf Club, Corsham Road, Whitley, Melksham, SN12 8EQ	10.00 – 00.00	Daily
The Golden Fleece, Folly Lane, Shaw, Melksham, Wiltshire, SN12 8HB	10:00 – 01:00	Daily

A map showing the location of the above premises is attached as **Appendix 3**.

3. Consultation and Representations

3.1 The application process requires a public notice (on pale blue paper) to be posted on the premises for a period of 28 days together with a publication of notice in a local news paper within 10 working days, starting on the day the authority receives the application. During the consultation period eighteen relevant representations were received. Five of which were against including one from Melksham Without Parish Council and thirteen were in support of the application.

3.2 During the consultation period Melksham Without Parish Council suggested the following modifications:

- Parish Council propose that the opening hours are set at 12.00 to midnight 6 days a week with a closing time of 23:00 hrs on a Sunday and on sales only. No Off licence sales.

This proposed modification was forwarded onto the applicant's agent for consideration. Email attached as **Appendix 4** No response was received from the applicant's agent.

3.4 Responsible Authorities

None

3.5 Other Representations

Mr & Mrs Highsmith, Pear Tree View, 129 Top Lane, Whitley, Melksham, SN12 8QY

Mr David Farr, 128a First Lane, Whitley, Melksham, SN12 8RG (Petition received with representation)

Mr Jonathan Miller, Heron's Reach, 163B Top Lane, Whitley, Melksham, SN12 8RB

Mrs Audrey Liversidge, 140 Top Lane, Whitley, Melksham, SN12 8QZ
Melksham Without Parish Council, 7 Market Place, Melksham, SN12 6ES

Supporting Representations

Mr John Lister, Little House, 123 First Lane, Whitley, Melksham, SN12 8RL

Mr Dominic Szanpo, 9 Brookfield Rise, Whitley, Melksham, SN12 8QP

Mr Mike Booth, 18 Shaw Hill, Shaw, Melksham, SN12 8ET

Mr Nathan Hall, 6 Beltane Place, Shaw, Melksham, SN12 8LE

Mr Adam Nardell, 116a First Lane, Whitley, Melksham, SN12 8RG

Mr Steven & Mrs Lisa Little, 157b West Hill, Whitley, Melksham, SN12 8RD

Mr Mark Ashkowski, 11 The Beeches, Shaw, Melksham, SN12 8EP

Ms Louise Mumford, 116a First Lane, Whitley, Melksham, SN12 8RG

Mr Paul Lambert, The Old Barn, Shurnhold Farm, 65 Shurnhold, Melksham

Ms Jo Body, 85 Corsham Road, Whitley, Melksham, SN12 8QF

Mrs Wales, 105G, Top Lane, Whitley, Melksham, SN12 8QL

Mr David Wales, 105G, Top Lane, Whitley, Melksham, SN12 8QL

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

Representation	Licensing Objective	Accepted	Comments
Noise	Public Nuisance	Yes	Patrons and cars leaving late at night.

3.7 After the consultation period ended Melksham Without Parish Council withdrew their representation based on discussions which took place between the Parish Council and local residents.

3.8 The relevant representations are attached as **Appendix 5** with supporting representations attached as **Appendix 6**.

Attached as **Appendix 7** is a map which shows the location of the relevant representations in relation to the premises.

3.9 Attached as **Appendix 8** is supporting documentation by way of a petition on behalf of the applicant

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 Responsible Authority 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 The Applicant and those who have made relevant representations are entitled to address the Sub Committee and to ask questions of the other 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 those who have made relevant 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 any person 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 a person other than a Responsible Authority will not normally be granted within the first 12 months except for the most compelling circumstances.

Report Author: Teresa Bray

Teresa Bray, Public Protection Officer (Licensing)

Date of report 22 July 2015

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 Form**
- 2 Current Premises Licence**
- 3 Map showing location of licensed premises in the vicinity**
- 4 Proposed modification from Melksham Without Parish Council**
- 5 Relevant representation**
- 6 Supporting representations**
- 7 Map showing locations of relevant representations made**