

PART A

Report to: Licensing Sub-Committee
Date of meeting: 19 June 2014
Report of: Head of Community and Customer Services
Application to vary a Premises Licence Application:
Nascot Arms, 11 Stamford Road, Watford, WD17 4QS
14/00468/LAPRE

1.0 SUMMARY

1.1 An application for a variation to premises licence has been received from Greene King Retailing Limited for Nascot Arms, 11 Stamford Road, Watford, WD17 4QS. Thirty-eight valid representations have been received from local residents as interested parties and one from a responsible authority.

2.0 RECOMMENDATIONS

2.1 That the Licensing Sub-Committee determines whether to grant the application (amended as appropriate for the promotion of the licensing objectives) as set out in the report.

Contact Officer:

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Report approved by: Alan Gough, Head of Community and Customer Services

3.0 APPLICATION

3.1 Type of authorisation applied for
Variation to an existing Premises Licence.

3.2 Description of premises
The premises is a local community pub and located in the middle of the well established Nascot Wood Conservation area. It is quite a densely occupied residential area with a children's play park just opposite.
The alteration consists of an extension to the kitchen, an extension to create an additional dining area.

3.3 A map of the location of the premises is attached at appendix 1.
A plan of the premises is attached at appendix 2.

3.4 Licensable Activities

Licensable activity	Permitted now	Subject to variation
Plays		
Films		
Indoor sporting events		
Boxing or wrestling entertainment		
Live music		
Recorded music		
Performances of dance		
Anything of a similar description to live or recorded music or dance		
Provision of late night refreshment		✓
Sale by retail of alcohol for consumption on the premises	✓	✓
Sale by retail of alcohol for consumption off the premises	✓	✓

3.5 Licensable Hours

The applicant has applied for a variation of their existing premises licence to extend the hours during which alcohol may be sold and to include the provision of Late Night Refreshment hours during the hours shown below.

	Existing hours for the sale of alcohol for consumption on and off the premises	Proposed hours for the sale of alcohol for consumption on and off the premises	Proposed Late Night Refreshment hours	Existing opening hours	Proposed Opening hours
Monday	11:00-23:30	11:00-00:00	23:00-00:30	11:00-00:00	11:00-00:30
Tuesday	11:00-23:30	11:00-00:00	23:00-00:30	11:00-00:00	11:00-00:30
Wednesday	11:00-23:30	11:00-00:00	23:00-00:30	11:00-00:00	11:00-00:30
Thursday	11:00-23:30	11:00-00:00	23:00-00:30	11:00-00:00	11:00-00:30
Friday	12:00-00:00	No Change	23:00-00:30	11:00-00:30	No Change
Saturday	12:00-00:00	No Change	23:00-00:30	11:00-00:30	No Change
Sunday	12:00-22:30	11:00-00:00	23:00-00:30	12:00-23:00	11:00-00:30

3.6 Non Standard Timings

On New Year's Eve, all licensable activities are able to be provided throughout the night until the start of licensable activities on 1 January. These are the standard hours for New Year's Eve as permitted by the previous legislation and which were carried over during transition from the Licensing Act 1964 to the Licensing Act 2003.

3.7 Currently imposed conditions which are requested to be removed as a consequence of the proposed variation:

The removal of existing Condition 12 of Annex 2 "Children only on the premises between 11am and 8pm".

The applicant has proposed the addition of the following condition:

"Accompanied children will be permitted on the premises until 9pm unless they are taking a table meal or attending a function when they will be permitted to stay on the premises until the end of the meal or function".

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor

The proposed designated premises supervisor is Mr Craig Fabian

4.3 Current licences held

11/00969/LAPRMV

4.4 Closing date for representations

23 May 2014

4.5 Public notice published in newspaper

2 May 2014

4.6 Visits and Enforcement action

No enforcement action has been taken in relation to the premises licence.

5.0 **PROMOTION OF LICENSING OBJECTIVES.**

5.1 The application indicates that the applicant does not feel there is a need to take any additional steps in order to promote the licensing objectives (refer to Appendix 3)

6.0 **RESPONSIBLE AUTHORITIES**

6.1 Police

No representations

6.2 Fire and Rescue Service

No representations

6.3 Environmental Health

Having reviewed and sharing the residents' concerns Environmental Health have proposed the following conditions, which the applicant has agreed.

1. Between 11:00 and 09:00, patrons will only smoke within the rear yard.
2. Drinks will not be permitted to be taken outside between 11pm and 9am.
3. Between 11:00 and 09:00, all external doors and window are to be kept shut with the exception of allowing people to enter or exit the premise.

6.4 Planning

No representations

6.5 Trading Standards

No representations

6.6 Child Protection
No representations

6.7 Interested Parties
Representations have been received from the interested parties below on the grounds of public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. These representations are attached at appendix 5 and all have been made available to the applicant.

6.8

Reference letter	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
5A	Mrs Shirley Brown	7 Stamford Road	No	Public nuisance
5B	Gareth Gibson	1 Stamford Road	No	Public nuisance
5C	Greg & Debbie Beach	7 Cole Road	No	Public nuisance
5D	J R Hibbert	Elmdene, Nascot Place	No	Public nuisance, Public Safety
5E	W E Miller	9 Nascot Place	No	Public nuisance, Public Safety
5F	Helen and Thomas Ward	5 Cole Road	No	Public nuisance
5G	Mrs Kerry Beach	23 Gisburne Way	No	Public nuisance
5H	Mr C A Spanner	54 Park Road	No	Public nuisance, protection of children from harm
5I	J Newell	41 Park Road	No	Public nuisance
5J	Mr Adrian Plant	19 Stamford Road	No	Public nuisance
5K	J P McMahon	33 Church Road	No	Public nuisance, Protection of

				children from harm
5L	Georgina Wingham and Kevin Sorsby	3 Stamford Road	No	* Limited support
5M	Celia Rowbotham	44 Church Road	No	Public nuisance
5N	Paul Curtis	25 Alexandra Road	No	*Limited support
5O	Cllr Mark Hofman	28 Malden Road	No	*Limited support
5P	Cllr Mark Watkin	170 Hempstead Road	No	Public nuisance, protection of children from harm
5Q	Mr & Mrs Kevin and Tracy O'Brien	2 Nascot Place	No	Public Nuisance
5R	Ian Green	6 Nascot Place	No	Public nuisance
5S	Andrew Phillips	4 Stamford Road	No	Public nuisance
5T	Rob Pokorny	38 Langley Road	No	Public nuisance
5U	Watford & District Synagogue	16 Nascot Road	Yes	Public nuisance
5V	Ms Fiona Ettridge	13 Stamford Road	No	*Limited support
5W	Frances Nicholas	17 Nascot Place	No	Public nuisance, Protection of children from harm
5X	Ms Featherstone-Brown	5 Nascot Place	No	Public nuisance, Prevention of Crime and Disorder, Protection of children from harm, public safety

5Y	Frances Burdis and Alan Burdis and Robert Burdis	13 Nascot Place	No	Public nuisance
5Z	Siobhan Garibaldi	5 Park Road	No	Public nuisance, protection of children from harm, Prevention of Crime and Disorder, Public Safety
5AA	Mr Martin Ramirez	2 Nutfield House, 56 Stratford Road	No	Public Nuisance
5AB	John and Diane Ramsey	9 Stamford Road	No	Public Nuisance
5AC	Stephen Fyles	Langley Road No. withheld	No	Public Nuisance
5AD	Sue Curtis	25 Alexandra Road	No	Protection of Children from harm, Public Nuisance
5AE	Briony Tomlinson	11 Nascot Place	No	Public Nuisance
5AF	Mary Howard and Kevin Scully	23 Park Road	No	Public Nuisance
5AG	Susan Hill	15 Stamford Road	No	Prevention of Crime and Disorder
5AH	Jonathan Pendry	7 Nascot Place	No	Public Safety, Public Nuisance, Prevention of Crime and disorder
5AI	Keith Mason	Not a resident	No	Protection of Children from harm and Public

				Nuisance
5AJ	Christine Wilkinson	3 Nascot Road	No	Public Nuisance
5AK	Alex McGregor-Mason	Nascot Residents' Association 37 Church Road	Yes	Public Nuisance
5AL	Cllr J Aron	12 Dellfield Close	No	Public Nuisance, Protection of children from harm

6.9 Residents have raised the following points in their representations:

- (1) the pub is located on the corner of Nascot Place and Stamford Road. Nascot Place is a cul-de-sac and Stamford Road is a one-way street
- (2) street lights in the area surrounding the pub go out at midnight. This lack of lighting and one-way street is a major threat to public and children after midnight.
- (3) late night refreshment will lead to greater noise disturbance as there would be an increase in the number of people leaving the premises late at night not only on Fridays and Saturdays but also on weekdays and Sundays.
- (4) the extractor fans at the premises emit smell or odour. The kitchen lacks filtration of cooking smells and the area is already pervaded by odour.
- (5) the Nascot Arms lacks air conditioning and during hot weather the windows are kept wide open and this leads to noise interference for nearby residents.
- (6) a resident's fence is reported to have been damaged by the number of customers congregating outside of the pub, which also means the pavement is often blocked and pedestrians having to use the road to get around the drinkers.
- (7) trade refuse bins being left unsecured on the pavement giving out foul and unpleasant smells and are prone to foxes.
- (8) residents have also referred to parking issues when customers pick up takeaways, they park extremely anti-socially – making ingress and egress very difficult. Customers block corners, and double yellow lines are often ignored thus making emergency services access difficult.
- (9) with the closure of one of the pubs nearby the residents have recovered their lost sleep and feel that if the extension of hours were to be granted

the residents will not be able to enjoy the peace which they have regained.

(10) the later opening hours will give rise to problems of rowdy and drunken behaviour in the pub and the Stamford Park area which is directly opposite the pub, which in itself creates a dangerous situation for children. They are extremely concerned about the crime and disorder and the anti-social behaviour that already exists in the vicinity.

(11) the increase in hours will lead to increase in clientele which would result in customer leaving the premises even later, thereby causing disturbance to residents later in the morning. There will be increase in noise levels due to vehicle and taxi movements, problems of food takeaway, parking, litter and shattered glasses in the streets. Residents feel that this application will further disrupt the residents' enjoyment of a peaceful area.

6.10 The Nascot Residents Association have raised a formal objection on behalf of the thirty-four residents on the grounds of public nuisance.

6.11 A few residents have supported this application. They have no particular problems with the extension to their opening hours, however they have opposed the removal of the condition and the idea of children being in the bar later than they are currently allowed and do not wish children to be put at risk.

6.12 Some residents have partially supported the applicant's proposal to add the condition that accompanied children will be permitted on the premises until 21:00 hours. In their opinion this is realistic, however there are likely to be times when the functions may go past these hours and have raised concerns whether children will be supervised during these hours.

7.0 **Policy considerations**

7.1 The following provisions of the Licensing Act 2003 apply to this application:

- **Sections 17 and 18 (Application for a premises licence):**
Section 17 details the process which the applicant must have followed for the application to be considered valid. Section 18 describes the process by which an application for a premises licence is determined, including where relevant representations have been made as in this case.
- **Section 19 (Mandatory conditions):**
Section 19 details the mandatory conditions that would apply if the sub-committee was minded to grant a licence authorising the supply of alcohol.
- **Section 34 and 35 (Variation of licences):**
Section 34 details how a licence holder can make an application.

Section 35 details how determinations will be made when an application is made under section 34.

- The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 This Order adds a mandatory condition regarding the requirement for an age verification policy to any licence or certificate that authorises the supply of alcohol.

7.2 Statutory guidance

The following provisions of the Secretary of State's guidance apply to this application:

- Paragraphs 8.34 - 8.42:
These paragraphs explain how steps should be taken to promote the licensing objectives. It is for the Sub-Committee to decide in light of this guidance whether the measures offered by the applicant are adequate and likely to promote the licensing objectives. It is equally important to use the same measure when looking at any steps requested by a party making representation against an application.

Chapter 10:

This chapter looks at best practice in relation to conditions that may be attached to a premises licence by the Sub-Committee, should they believe that these are necessary to promote the licensing objectives. Any additional conditions requested by the responsible authorities should be considered with reference to this chapter.

7.3 Statement of licensing policy

The following paragraphs of the licensing authority's statement of licensing policy apply to this application:

- Policy LP1 (Premises Definitions):
Under this policy the premises are defined as a "Public House".
- Policy LP2 (Location and Operation of Premises):
This policy sets out the approach to licensing premises when relevant representations are received, notwithstanding that each application is considered on its own merits.

Public houses in a residential area will generally be allowed alcohol sales to midnight only (other than for special occasions).

When issuing a licence, stricter conditions with regard to noise control and limitations to opening hours may be imposed in case of premises which are situated in residential areas and are subject to relevant representations.

- Policy LP6 (Prevention of Crime and Disorder):
Under this policy the committee will consider any necessary

measures to deal with the potential for crime and disorder as a result of the proposed licensable activities where relevant representations have been received.

- Policy LP8 (Prevention of Public Nuisance)
Under this policy the committee will consider any necessary measures to deal with the potential for public nuisance and/or anti-social behaviour where relevant representations have been received.
- Policy LP9 (Protection of Children from Harm):
Under this policy the committee will consider any necessary measures to deal with the potential for children to be harmed as a result of the proposed licensable activities where relevant representations have been received.
- Policy LP11 (Representations against Applications)
This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

7.4 The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

7.5 The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

8.0 RELEVANT TRADE OR OTHER GUIDANCE

None

9.0 OFFICERS' OBSERVATIONS

9.1 The main concern appears to be that any extension of licensed hours will potentially increase problems of noise, crime and disorder and anti-social behaviour, and the effect this could have on local residents - particularly children. This is an overarching theme of all objectors and links to all the licensing objectives.

9.2 A number of representations have highlighted that there is already a considerable noise from parents drinking on the pavement outside the pub whilst keeping an eye on the children playing in the park across the road. References have been made to patrons blocking the pathway whilst drinking and congregating. They also site tables and chairs on the narrow footpaths and roads. Also, occasionally taking drinks on to the Stamford Road playground park and leaving partially consumed alcohol.

- 9.3 The Sub-committee should be aware that the problem of drinking and smoking on the pavement seems to have been addressed by the applicant through the new proposed plans which highlight that the rear will be used as the smoking area and they have agreed to the conditions proposed by Environmental Health. These now form part of the operating schedule and are listed on the draft licence at appendix 4.
- 9.4 Members may wish to question the applicant with regards to their internal policy or procedures to monitor any of the outdoor areas to the front or the side of the premises. The licensee needs to exercise control over smokers and drinkers by not allowing them to take drinks outside with them. The area must be monitored by the nominated person to ensure that patrons do not obstruct access and ensure that the risk to children and public nuisance in the area is controlled.
- 9.5 The Sub-Committee may wish to note that residents have strongly objected to the removal of the condition only allowing children on the premises between 11:00 and 20:00 as it is a family-orientated residential area. Members may wish to question the applicant as to their plans or proposals for the premises and their intention to change this condition.
- 9.6 Alternative hours suggested in the representations vary widely. Some of the residents have supported the extension of hours only on Friday and Saturday and opposed the extension of hours during the weekday on grounds of public nuisance. However, no change has been proposed to the hours on Friday or Saturday.
- 9.7 In a number of representations issues are raised that may not fall directly under the control of the applicant. Many of these issues will potentially arise whether the extended hours are granted or not. Issues such as parking, litter, etc should be considered as matters of personal responsibility and the extent to which the applicant can control this is limited. Some of these issues are already occurring, and any measures may prove hard to enforce so may be of limited benefit. Paragraph 2.24 of the statutory guidance clearly states
- “Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations”.
- 9.8 A number of residents have objected on the grounds that the grant of this application is likely to increase traffic and potentially lead to parking congestion. For the committee to accept this as a valid ground for objection, it must be satisfied that traffic and parking is relevant to one of the licensing objectives and if so, is likely to affect the licensing objectives. Members should note that there is in existence other primary legislation that can deal with any concerns relating to parking and traffic congestion. Thus, in order to avoid statutory duplication it may not be appropriate for the committee to attach conditions relating to parking and traffic issues. Members may need

to consider how the premises licence holder can influence and control such matters.

9.9 Residents have also highlighted that adding late night refreshment as a licensable activity would further increase noise and nuisance created by cars parking and customers using the premises late at night. Members should note that the provision of late night refreshment to take place on the premises only means there will be no takeaways after 23:00, only service of hot food and drink inside the premises after 23:00. There are no powers to control take-aways before 23:00.

9.10 The applicant has written to the interested parties to address their concerns (see appendix 6). They have offered the following additional conditions:

1. Staff will sweep away any rubbish outside the premises at the start of each day.
2. A cigarette bin will be installed by the entrance of the premises.
3. No bottling out or disposal of refuse will take place after 22:00.
4. Signs will be installed asking customers not to take drinks outside.

In addition to the above the applicant will also be installing a new extraction system which is fitted with filters to ensure cooking smells are reduced.

In order to ensure that children within the premises are protected from any harm, the applicant has sought to add a condition which provides children will only be permitted when they are accompanied by an adult and then only until 9pm unless they are taking a table meal or attending a function.

10.0 **CONDITIONS**

10.1 Members will be aware that an operating schedule forms part of the licensing application process. This document outlines what activities are proposed, the opening hours, how the activities will be managed particularly in respect of the licensing objectives.

The most critical part of the operating schedule is the steps taken by the applicant to promote the four licensing objectives. Applicants are always recommended to take careful consideration as to what is entered in this section as whatever is proposed will be translated as conditions on the licence.

Applicants should give consideration to the local area and reflect this in their application. It should demonstrate an awareness of the local community, local crime and disorder issues, and environment.

All of the conditions that would appear on any granted premises licence can be found on the draft licence at appendix 4.

10.2 Consistency with operating schedule

The application indicates that the applicant does not feel there is a need to take any additional steps in order to promote the licensing objectives.

10.3 Conditions proposed by the responsible authorities

Conditions proposed by Environmental Health can be found on the draft licence prepared by officers set out at appendix 4.

Environmental Health have also proposed the following condition to control public nuisance and restrict the number of persons in the smoking area which the applicant has not accepted:

“No more than five patrons will be permitted in the smoking yard between 11:00 and 09:00”

The applicant has stated that they have no intention of encouraging customers to be outside for any extended period of time. In their opinion, five is such a small number that they could quite easily find themselves in a breach of condition should an additional person to go outside at the same time as five others smoking outside.

In effect this condition would require a nominated member of staff to constantly monitor the smoking area, which the applicant finds impractical. Members may attach whatever weight as they see fit. They may disregard this condition, attach it as it is or modify the condition.

10.4 Conditions proposed by interested parties

None

10.5 Pool of Model Conditions

The licensing authority also has its own pool of model conditions. The following conditions are suggested by officers to address the concerns of the interested parties. The sub-committee may consider whether any of the suggested conditions [modified or otherwise] ought to be included on the licence to promote the licensing objectives:

Condition	Reason
<i>22 – Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.</i>	To address the representations concerning public nuisance. This is appropriate, proportionate, reasonable and within the applicant's power to comply.
<i>24 – Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.</i>	To address the representations concerning crime & disorder and public nuisance. This is appropriate, proportionate, reasonable and within the applicant's power to comply.

10.6 In addition to the above, it seems the following condition may be appropriate to control pavement noise to adjacent properties. The sub-committee may

consider the following suggested conditions:

“Patrons shall not congregate at any outdoor areas to the front or the side of the premises after 21:00”.

“The Licensee shall make arrangements to ensure so far as is reasonably practicable that no customers shall be permitted to remove from the Premises any open bottles, glasses or foodstuff for consumption or disposal outside the Premises other than take-away food and drink sales.”

- 10.7 This does not restrict the Sub-Committee’s power to attach conditions from the pool (amended or otherwise) if they consider that they are appropriate, proportionate, justifiable and within the applicant’s power to comply with.
- 10.8 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must ‘have regard to’ guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities unless they can find good reasons for the promotion of the licensing objectives to depart from it. The option to restrict the hours for the sale of alcohol is open to Members but there must be good reasons, based on the licensing objectives, for doing so. Any such reasons should be detailed as part of the decision.
- 10.9 The officers’ observations and the comments regarding the representations are in no way meant to bind Members. They are for guidance only and Members may attach whatever weight they see fit.

Appendices

Appendix 1 – map of the premises’ location

Appendix 2 – plan of the premises

Appendix 3 – applicants operating schedule/proposed variation

Appendix 4 – draft licence 14/00468/LAPRE

Appendix 5 – Representations

Appendix 6 –Letter to residents

Appendix 7 – Environmental Health representation

Background Papers

The following background papers were used in the preparation of this report.

If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Licensing Act 2003

Amended guidance issued under section 182 of the Licensing Act 2003
(Home Office June 2013)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2013 -2018)

Watford Borough Council Pool of Model Conditions (July 2010)

File Reference

Nascot Arms, 11 Stamford Road, Watford