

Licensing Sub-Committee

21 April 2021

Variation for The Dolphin Inn, Gillingham

For Decision

Portfolio Holder: Cllr J Haynes, Customer and Community Services

Local Councillor(s): Cllrs V Pothecary, B Ridout and D Walsh

Executive Director: J Sellgren, Executive Director of Place

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Report Status: Public

Recommendation: The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

Reason for Recommendation: The Sub-Committee must consider the oral representations and information given at the hearing before reaching a decision.

1. Executive Summary

An application has been made to vary the licence at The Dolphin Inn at Peacemarsh in Gillingham. The application has been out to public consultation and has attracted a representation. A Licensing Sub-Committee must consider the application and representations at a public hearing.

2. Financial Implications

Any decision of the Sub-Committee could lead to an appeal by any of the parties involved that could incur costs.

3. Climate implications

None

4. Other Implications

Public Health and Community Safety

5. Risk Assessment

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

6. Equalities Impact Assessment

Not Applicable

7. Appendices

[Appendix 1 – Premises licence](#)

[Appendix 2 – Application for the variation](#)

[Appendix 3 – Representations](#)

8. Background Papers

[Licensing Act](#)

[Section 182 Guidance](#)

[LGA Councillors Handbook](#)

[EHRC - Guide to the Human Rights Act for Public Authorities](#)

9. Details

- 9.1. Dolphin Pub Ltd is the holder of the premises licence for The Dolphin Inn, Peacemarsh, Gillingham, SP8 4HB which currently allows: -

Sale of alcohol on the premises

Monday to Sunday	10:00 to 01:30
New Year's Eve	10:00 to 02:00

Regulated Entertainment (Indoors only)
Monday to Sunday 10:00 to 02:00

Late Night Refreshment (Indoors only)
Monday to Sunday 23:00 to 02:00
New Year's Eve 23:00 to 05:00

The current licence is attached at appendix 1.

- 9.2. Mr Andrew Dean on behalf of Dolphin Pub Ltd has applied to vary the area that is currently licensed to include the car park. This will enable an outside catering unit from which alcohol can be served. The full application is attached at appendix 2.
- 9.3. The application has been advertised on the premises, in a newspaper and the Councils web site.
- 9.4. One representation has been received from a resident who lives in the vicinity of the premises. The representation is included in full in appendix 3. The representation relates to public nuisance.
- 9.5. Mr Dean has responded to the representations by email which is attached in full at appendix 4. In his response Mr Dean has stated “We had fully intended to close the outside bar at 10pm on any weekday night that it is open and at 1030pm on a Friday and Saturday night”

10. Considerations

- 10.1. Condition 3 in Annex 3 of the current licence states that “The use of the outside areas for all activities shall cease at 2300 hours”. This condition would apply to any area covered by this licence.
- 10.2. Paragraphs 9.42 to 9.44 of the Section 182 Guidance sets how the Authority should decide what actions are appropriate.

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

11. Recommendation

- 11.1. The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;
- a) the prevention of crime and disorder
 - b) the prevention of public nuisance
 - c) public safety
 - d) the protection of children from harm.

- 11.2. The steps that the Sub-Committee may take are to:
- a) modify the conditions of the licence, or
 - b) reject the whole or part of the variation.

Footnote:

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.