

Mr N Connor  
McLellans Solicitors  
Old Cross House  
Old Cross  
HERTFORD  
SG14 1RB

**Chief Executive's Department**  
Governance Services  
4<sup>th</sup> Floor West  
Civic Hall  
Leeds LS1 1UR

Contact: Helen Gray  
Tel: 0113 247 4355  
Fax: 0113 395 1599  
Email: helen.gray@leeds.gov.uk  
Your reference:  
Our reference: A61/hb/bowling green

November 2006

**APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT THE BOWLING GREEN, 18 BONDGATE, OTLEY, LEEDS LS21 3AB**

On 20<sup>th</sup> November 2006 the Licensing Sub Committee heard an application by J D Wetherspoon PLC, Wetherspoon House, Reeds Crescent, Watford WD24 4QL for the variation of a premises licence in respect of the premises known as the "Bowling Green" Otley.

The applicant sought the following:

Provision of films, live music, recorded music, performances of dance, anything similar to live/recorded music or dancing, provision of facilities for making music and provision of facilities for dancing, provision of facilities for entertainment similar to making music or dancing:

Sunday to Thursday	07:00 hours until 00:30 hours
Friday & Saturday	07:00 hours until 01:30 hours

Provision of Late Night Refreshment

Sunday to Thursday	23:00 hours until 00:00 midnight
Friday & Saturday	23:00 hours until 01:00 hours

For the supply of alcohol for consumption both on and off the premises

Sunday to Thursday	09:00 hours until 00:00 midnight
Friday & Saturday	09:00 hours until 01:00 hours

The applicant also sought the following non-standard timings:

Christmas Eve	until 02:00 hours
Boxing Day	until 02:00 hours
New Years Eve	until the finish time for the sale of alcohol on New Years Day

FINAL

Plus an additional hour to the finish times on the following days:

- Burns Night (25<sup>th</sup> January) Australia Day (26<sup>th</sup> January); St David's Day (1<sup>st</sup> March); St Patrick's Day (17<sup>th</sup> March); St Georges Day (23<sup>rd</sup> April); St Andrews Day (30<sup>th</sup> November)
- the Thursday immediately preceding Good Friday
- the Sunday immediately preceding a Bank Holiday Monday

Plus on the morning that British Summer Time commences to operate until 02:30 hours to allow for the clocks going forward at 01:00 hours

The applicant proposed to open the premises to the public at the following times, should the application be granted:

Sunday to Thursday	07:00 hours until 00:30 hours
Friday & Saturday	07:00 hours until 01:30 hours

This letter represents the formal decision of the Sub Committee in respect of the application.

### **Preliminary Procedural Issues**

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made.

The Sub Committee then decided that the procedure for the hearing would not be varied. The Sub Committee also considered if the public should be excluded from any parts of the hearing.

The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report and the written representations received from West Yorkshire Police (WYP) and from Mr J Moxon, Ms J Highcock, Ms J Slack and Mr M & Mrs J Clerk (local residents.) None of the interested parties attended the hearing and the Sub Committee noted that WYP had now withdrawn their representation

The applicants' representative brought additional information which he intended to refer to during the hearing. However as this related to other licensed premises in the locality and their individual opening hours, the Sub Committee advised the applicant that this information could not be taken to account as the application would be considered on its own merits and not in comparison to other existing premises.

The Sub Committee permitted the applicant 10 minutes in which to make their case. This time limit was imposed having regard to the relevant Regulations and in the interests of consistency and the efficiency of business.

The Sub Committee then went on to consider the application.

FINAL

## **The Hearing**

The Sub Committee considered the verbal submissions of Mr N W Connor, the solicitor on behalf of the applicants. He addressed the application and the comments of the interested parties. Mr Connor was accompanied by Mr Broom, Regional Area Manager for JD Wetherspoons PLC

In determining the application the Sub Committee took into account written submissions from the above responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the Parties prior to the hearing.

After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the licence would promote the licensing objectives.

In reaching this decision the Sub Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy.

In particular the Sub Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 7 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application.

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

## **Reasons for the decision**

The Sub Committee noted that the following agreement had been reached between the applicant and West Yorkshire Police regarding their suggested conditions:

- The premises licence holder will operate a Challenge 21 policy and in conjunction posters promoting West Yorkshire Police's own Check 21 scheme will be displayed at the premises.

This agreed condition would be included within the Operating Schedule at the premises should the Licence be granted.

Mr Connor began by explaining that the application had since been amended. The requested standard hours remained as advertised, however the "non-standard" hours had been withdrawn by the applicants – except for the additional hours at New Years Eve/New Years Day and at the commencement of British Summertime. The amended application had met with Police support and had been done with regard to the views of local residents. Mr Connor stated he did not believe the hours now requested were excessive.

Mr Connor then turned to the premises itself – he explained that JD Wetherspoons had acquired the premises on 29<sup>th</sup> September 2006 and had commenced refurbishment works which would see an enlarged footprint to the building and include a conservatory area. The building itself was listed, which reduced the amount of refurbishment possible but works would provide an overall size of 2,500 sq ft. It was the company's intention to retain the name "Bowling Green" and the current character of the premises.

FINAL

Mr Connor turned to the nature of entertainment to be offered at the public house. He described the intention for the venue to be food led, indeed other similar JD Wetherspoon premises had a 40% target of overall sales based on food and coffee sales. He stated that food would be available for the duration of licensing hours, so there would be no need for patrons to frequent late night takeaways, this he believed would reduce what he described as “flashpoints” late at night. The venue would have several themed food nights – such as a curry night.

He further explained the premises would not emphasis a particular clientele, rather they intended to encourage a variety of customers thus reducing the number of groups of young people attracted at any one time. Mr Connor turned to the issue of pricing. He said the Company’s reputation for “cheap booze” was unfair; rather the alcohol was competitively priced. If a customer requested a double spirit they would pay double the price of a single spirit. In general the Company promoted various quality alcohol products including wines and cider, but also supported “guest” ales as well.

Mr Connor then described the awards the Company had achieved for the emphasis placed on staff training and for the range of alcohol on offer. He expected that there would be a manager on the premises at any given time and 5 staff. At weekends, 2 managers would be on site. The Company strongly emphasised the need for “quality, cleanliness and atmosphere”. As part of this focus the Company employed “mystery visitors” who visited individual premises and reported their findings to the management. A premise would be judged by quality and service and not just by the alcohol sales figures.

Turning to comments regarding public nuisance, Mr Connor reported that a meeting between the applicants and LCC Environmental Health Officers had taken place and measures agreed between them appeared within the application proposed in order to address any possible public nuisance issues.

Mr Connor did concur that it was difficult to control patrons once they had left the premises, but he stated that as long as customers were well managed and behaved within a premise, they would continue to do so outside. Furthermore, signs would be displayed within the premise to encourage good behaviour. Mr Connor put forward his view that now closing hours were staggered, dispersal of customers was much easier and caused less impact on local residents. Rather than large groups leaving at the same time, customers left in dribs and drabs.

With regard to the letters of objection from local residents, Mr Connor stated that one submission was from a resident who did not live on the immediate vicinity. With regard to the remainder, he reminded the Sub Committee that the premises was already in existence and reiterated his view that the hours requested in this application were not longer than other public houses in the locality. Again he stated it was not the Company’s intention to encourage coach loads of customers to the premises. Mr Connor added that the Company usually enjoyed good relationships with local residents, and furthermore management staff were encouraged to give their telephone numbers to residents so that they could be contacted if residents perceived any problems.

In answer to a question from the Sub Committee, Mr Connor referred to the letters and stated the reference to noise emanating from the premises was a comment about noise generally in the locality, especially as the author lived approximately 75 yards away.

The Sub Committee then commented on the external area and the presence of picnic benches. They additionally commented that in the past, the use of plastic glasses within the external areas had been required of other premises. Mr Connor confirmed their existence,

FINAL

and explained that they did not constitute part of the areas covered by the plan accompanying the application which showed the licensable area. However he did believe that this area could be managed. He confirmed that the applicant had agreed to restrict the use of the external area after 23:00 hours. The Sub Committee briefly touched on the issue of the forthcoming ban on smoking indoors which could encourage groups of patrons to assemble outside the premises to smoke and thus cause increased noise to residents. Mr Connor replied that this would be an issue for the whole licensing trade to address in the future, but he believed that the premises manager would be able to control the area if patrons did make use of the beer garden to smoke.

Mr Broom added that the usual management style included a front of house presence especially at closing time as the Company took the view that their responsibilities did not end at the door. The Company successfully ran a similar establishment in Skipton which was situated next to elderly residents and opposite a bowling green. He commented that by managing the external area at this premises to the same standard as management within the premises, they had found no problems with behaviour outside. Mr Broom further explained that the Company generally tried to demarcate external areas to prevent customers spilling out onto the public highway, and he confirmed that the plastic glasses could be used in the future

In conclusion and with regard to the provision of entertainment, Mr Connor confirmed this had been requested right up until closing time to provide flexibility for specific events. He described a similar premise in Rotherham, which occasionally featured a live band or a curry club – the later hours would provide flexibility for such events. With regard to glazing at the premises to prevent noise breakout, Mr Broom reminded the Sub Committee that as the building was listed there was a limit to what the Company could achieve however the refurbishment works would address this. The Sub Committee commented that the application suggested the provision of live entertainment and amplified music until the terminal hour, when at other establishments a “wind down” period was provided. In response Mr Connor provided the reassurance that this premise was intended to be food led. Any entertainment would be monitored as the applicants did not want to be in a position where local residents or neighbours complained to LCC EHO. Mr Broom added that at other premises, the Company had agreed a decibel level with the local EHO officer and confirmed that if deemed necessary, this would be done at this premises. Mr Connor then added that limiting the hours for the provision of music would not cause the applicant any difficulty if the Sub Committee thought this necessary.

### **The Decision**

The Sub Committee had regard to the written submissions made by local residents in relation to the application. The Sub Committee also noted the applicant had withdrawn part of the application relating to extended hours for “non standard” timings – having had regard to residents comments.

It was noted that the applicants had accepted measures suggested by WYP. Members also carefully considered the representations made by the applicant in support of the application. The Sub Committee noted the submission regarding the applicants’ intention to retain the character and name of the premises. The Sub Committee also commented that the provision of a “wind down” period relative to regulated entertainment would also prove beneficial to the promotion of the prevention of public nuisance objective. The Sub Committee maintained a concern with regard to possible nuisance emanating from the use of the external area.

Therefore the Sub Committee resolved to grant the application with the following amendments:

FINAL

- Provision of films, live music, recorded music, performances of dance, anything similar to live/recorded music or dancing, provision of facilities for making music and provision of facilities for dancing, provision of facilities for entertainment similar to making music or dancing:

Sunday to Thursday	07:00 hours until 00:00 hours
Friday & Saturday	07:00 hours until 01:00 hours

- Provision of Late Night Refreshment

Sunday to Thursday	23:00 hours until 00:00 midnight
Friday & Saturday	23:00 hours until 01:00 hours

- For the supply of alcohol for consumption both on and off the premises

Sunday to Thursday	09:00 hours until 00:00 midnight
Friday & Saturday	09:00 hours until 01:00 hours

With 30 minutes "drinking up" time

- New Years Eve until the finish time for the sale of alcohol on New Years Day
- Plus on the morning that British Summer Time commences to operate until 02:30 hours to allow for the clocks going forward at 01:00 hours

- The applicant to open the premises to the public at the following times

Sunday to Thursday	07:00 hours until 00:30 hours
Friday & Saturday	07:00 hours until 01:30 hours

### **Condition**

The Sub Committee also impose the following condition, thought necessary to further prevent public nuisance:

- Only plastic glasses to be used in the external area/beer garden

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices  
Leeds Magistrates Court  
Westgate  
Leeds  
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £75.00.

Yours faithfully,

**Helen Gray**  
**Clerk to the Licensing Sub Committee**