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# **Application for a variation of an existing premises licence**

Licensing (Hearings) Sub-Committee

Decision to be taken by: Licensing (Hearings)  
Sub-Committee

Decision to be taken on/Date of meeting: 29 January 2025

Lead director/officer: Deborah Bragg

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## Useful information

- Ward(s) affected: Westcotes
- Report author: Valentina Cenic
- Author contact details: 0116 454 3081
- Report version number: 1

### 1. Summary

- 1.1 This report outlines an application under the Licensing Act 2003 for a variation to an existing premises licence for Secret Garden Lounge, 66 Braunstone Gate, Leicester and summarises the representation received. It also highlights the licensing objectives and the relevant parts of both the statutory guidance and the Licensing Authority's Licensing Policy.

### 2. Determination to be made

- 2.1 Having considered the application and representations, Members must consider whether to
- Grant the licence without modification
  - Modify the conditions of the licence
  - Reject the whole application

### 3. Application and promotion of the licensing objectives

- 3.1 An application was received on 12<sup>th</sup> December 2024 for a variation of an existing premises licence for Secret Garden Lounge, 66 Braunstone Gate. A copy of the application is attached at Appendix A.
- 3.2 The variation application is as follows:

Licensable activity	Current hours	Proposed hours
Opening hours	Sunday to Thursday 11:00 – 01:00  Friday to Sunday 11:00 – 02:30	Monday to Thursday 11:00 – 02:30  Friday to Sunday 11:00 – 04:30
Late night refreshment (on/off)	n/a	Monday to Thursday 23:00 – 02:00  Friday to Sunday 23:00 – 04:00
Sale of alcohol (on/off)	Sunday to Thursday 11:00 – 00:30  Friday to Saturday 11:00 – 02:00	Monday to Thursday 11:00 – 02:00  Friday to Sunday 11:00 – 04:00
Regulated entertainment	Live music (indoors): Sunday to Thursday 11:00 – 00:30 Friday to Saturday 11:00 – 02:00	Sunday to Thursday 11:00 – 02:00  Friday to Saturday 11:00 – 03:00

	<p>Recorded music (indoors):  Sunday to Thursday  11:00 – 00:30</p> <p>Friday to Saturday  11:00 – 02:00</p>	
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3.3 The steps the applicant proposes to take to promote the licensing objectives are set out in the operating schedule (see section 16 of Appendix A).

3.4 The existing licence is attached at Appendix B.

3.5 In arriving at its decision on the application, the Licensing Authority’s primary consideration must be the promotion of the licensing objectives.

3.6 Location Plan



**4. Representations**

4.1 A representation was received on 17 December 2024 from the Police. The representation relates to all four licensing objectives. The Police states that the application is vague and does not provide details about how the applicant will promote and uphold the licensing objectives, The applicant wishes to increase the premises operating hours in the night time economy, but does not propose any additional measures in order to mitigate potential risks/reduce the likelihood of alcohol related crime, disorder and anti-social behaviour both at and in proximity to the premises.

The applicant also wishes to remove and amend some existing licence conditions which act as existing safeguards.

In the last 12 months the premises has twice come to the attention of the Police resulting in official warning letters being served on the applicant.

On Wednesday, 4 December 2024 a pre-planned meeting was held at the premises with the applicant, during which several major internal and external alterations were observed and not consistent with the premises current premises plan.

Given that alcohol related violent crime and disorder increases in the night time economy, combined with issues arising from the application, previous issues associated with the venue and events of 4<sup>th</sup> December 2024 give the Police reason for concern. That is why Leicestershire Police respectfully requests the application is rejected as it fails to promote all four licensing objectives.

A copy of the representation is attached at Appendix C.

- 4.2 A representation was received on 31 December 2024 from the Noise and pollution control Team. The representation relates prevention of public nuisance. The Noise Team state that the area is a mixed use of mainly bars and food outlets, but there are also several residential properties above and nearby the premises. Noise complaints have already been received by the Noise and Pollution Control Team regarding amplified music at the premises.

The Noise Team are concerned that allowing the premises to operate such long hours will increase the likelihood of noise complaints and cause disturbance to residents by customers visiting the premises throughout the night and particularly into the early hours of the morning. There is also the likelihood of noise disturbance from deliveries and staff activities.

The Noise Team has reached an agreement with the applicant.

A copy of the representation/agreement is attached at Appendix C1.

- 4.3 A representation was received on 7 January 2025 from the Licensing Enforcement Team. The representation relates to all four licensing objectives. The Licensing Authority do have concerns about the premises and the effects it may have on the local community, both business and residential. This relates to the detail of the operating schedule that has been applied for.

In addition to varying the hours and activities, the applicant wishes to remove some conditions that are imposed on the licence, but the Enforcement Team believe that will be inadequate with regards to the prevention of crime and disorder and protecting the children from harm. The Enforcement Team have therefore proposed both alternative conditions and retention of existing conditions which they believe will better fulfil the licensing objectives in line with conducting the business in a safe manner.

The Licensing Enforcement Team reached Agreement with the applicant.

A copy of the representation/agreement is attached at Appendix C2.

- 4.4 A representation was received on 8 January 2025 from Planning Enforcement Team.

The representation relates to prevention of public nuisance. Planning Enforcement Team state that the premises has been used as a bar/public house for many decades and recently has undergone an unauthorised change of use from a bar to restaurant and shisha lounge. In addition, without planning permission, an extension has been constructed in the rear yard and flues have been installed, this being the area covered by the retractable canopy. Liaison has been attempted with the applicant via his planning agent to rectify the issues, but this has not been resolved.

The retractable roof when open allows all noise from the shisha lounge, which includes live music, to be heard unfettered in the neighbourhood, affecting the residential amenity of occupiers of the flats above and surrounding it at first floor level. Therefore, it would be more suitable for an establishment in such a location to have hours more suited to residential living.

Also, no planning application has been submitted for the change of use of hours, which means the unauthorised use is currently operating and would not be granted planning permission in its current form due to issues including noise and light issues affecting the flats and the lack of bin storage area.

A copy of the representation is attached at Appendix C3.

## 5. Conditions

- 5.1 The conditions that are consistent with the application and the representations/agreements are attached at Appendix D.

## 6. Statutory guidance and statement of licensing policy

- 6.1 Any decision made by the Licensing Authority must be in accordance with the licensing objectives. In addition, the government has issued guidance under section 182 of the Licensing Act 2003. The parts of the guidance that are particularly relevant in this case are as follows:

Section	Heading
1.2 – 1.5	Licensing objectives and aims
1.15 – 1.16	General Principles
1.17	Each application on its own merits
2.1 – 2.6	Crime & Disorder
2.15 – 2.21	Public nuisance
8.41 – 8.49	Steps to promote the licensing objectives
9.11 – 9.12	Role of responsible authorities
9.31 – 9.41	Hearings
9.42 – 9.44	Determining actions that are appropriate for the promotion of the licensing objectives
10.1 – 10.3	Conditions - general
10.8 – 10.9	Imposed conditions
10.10	Proportionality
10.13 - 10.15	Hours of trading
10.25 – 10.66	Mandatory conditions in relation to the supply of alcohol

13.10 – 13.11	Giving reasons for decisions
14.51 – 14.52	Licensing Hours

6.2 The relevant parts of the Licensing Authority’s Statement of Licensing Policy are as follows:

Section	Heading
4	Promotion of the Licensing Objectives
5	General Principles
6	Premises Licences and Club Premises Certificates
8	Areas of Specific Interest and Consultation

## 7. Points for clarification

7.1 The applicant and the party making the representation have been asked to clarify certain points at the hearing, as follows:

*By the applicant*

1. Whether the applicant considers that the concerns outlined in the representation are valid, and if not why not.
2. In the light of the representation made, whether the applicant wishes to propose any additional steps for the promotion of the licensing objectives.

*By the party making the representation*

1. Whether they have any additional information to support the representation they have made.
2. Whether there are any additional steps that could be taken which would be equally effective in the promotion of the licensing objectives.

## 8. Financial, legal, equalities, climate emergency and other implications

### 8.1 Financial implications

There are no significant financial implications arising from the contents of this report.  
 Jade Draper Principal Accountant  
 15<sup>th</sup> January 2025

### 8.2 Legal implications

Legal advice specific to the application will be provided at the meeting by Legal Officers.

### 8.3 Equalities implications

Under the Equality Act 2010, public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

There are no direct equalities implications arising from the report. However it is important to consider issues of accessibility to the application process and its associated activities (such as lodging an appeal); The criteria used during determination of an application and its associated activities (such as lodging an appeal).

Signed: Surinder Singh, Equalities Officer

Dated: 15<sup>th</sup> January 2025

#### 8.4 Climate Emergency implications

There are unlikely to be any significant climate emergency implications directly associated with this report and the licensing process. Aidan Davis, Sustainability Officer, Ext 28 3384.

#### 8.5 Other implications

Crime and Disorder – see paragraph 4.

### **9. Background information and other papers:**

None

### **10. Summary of appendices:**

Appendix A – Application

Appendix B – Existing licence

Appendix C, C1, C2, C3 – Representations/Agreements

Appendix D – Conditions consistent with the application and representations/agreements

### **11. Is this a private report (If so, please indicate the reasons and state why it is not in the public interest to be dealt with publicly)?**

No

### **12. Is this a “key decision”? If so, why?**

No