



Report To:	Licensing Committee – Sub-Committee
Date:	Monday 01 st September 2025 – 10.00 hours
Subject:	Moon Under Water, 6 High Street, Boston
Purpose:	To consider an application for the variation of a premises licence where relevant representations have been received.
Key Decision:	No
Portfolio Holder:	Councillor Christopher Mountain
Report Of:	Senior Licensing Officer
Report Author:	Anna McDowell
Ward(s) Affected:	Not applicable
Exempt Report:	No

Summary

This is a hearing to consider an application for the variation of a Premises Licence, the applicants being J D Wetherspoon PLC, following the receipt of a relevant representation.

Recommendations

It is recommended that the Sub-Committee take into account all evidence and information received from the interested parties and the applicant and determine this matter.

The Sub-Committee must, having regard to all information presented, take such steps as considered appropriate for the promotion of the licensing objectives. The steps are set out in the Licensing Act 2003 and are detailed in the main body of the report.

Reasons for Recommendations

Section 18 (3) of the Licensing Act 2003 requires that the authority must hold a hearing to consider relevant representations unless all parties agree a hearing is not necessary.

Other Options Considered

None

1. Background

- 1.1 On 04 July 2025 an application for the variation of the premises licence for the Moon Under Water, 6 High Street, Boston was received from J D Wetherspoons PLC.
- 1.2 The Local Authority requires that the applicant serves a copy of the application on the Responsible Authorities, advertises the application in a local news publication and places notice of the application details outside the premises. The Licensing Authority must also publish a notice on its website. It is confirmed that these requirements were complied with.
- 1.3 A Responsible Authority or other person may submit a representation during the statutory consultation period.
- 1.4 The Licensing Act 2003 states that relevant representations mean representations which are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives. Only parts of a representation that are relevant to the application and its impact on those objectives may be considered.
- 1.5 Where relevant representations are received the Licensing Authority encourages all parties to mediate and will assist in the facilitation of mediation discussions. Where agreement cannot be reached, the Licensing Act 2003 requires that a hearing is held to consider the representations and determine the application.

2. Report

2.1 The application

- 2.1.1 An application for the variation of the premises licence currently in force for the Moon Under Water was received on 04 July 2025. The premises is located in Boston town centre in a mixed-use area consisting of commercial, recreational, and domestic properties. A location plan is attached at **appendix 1**.
- 2.1.2 The application seeks to amend the conditions set out at annex 2 of the premises licence and in summary seeks to:
 - Align the cessation of the use of the outside drinking area with the closing time of the premises. At present the use of this area must cease at 23.30 hours.
 - Allow children to remain in the premises until 21.30 hours unless they are eating in which case they will be required to leave at 22.00 hours. Access to the premises currently ceases 30 minutes earlier than the times applied for.
 - Include a condition relating to staff training relevant to duties, specifically relating to training of front of house staff in respect of responsible alcohol sales and prevention of underage sales.

- Ensuring that staffing levels are always appropriate to encourage responsible behaviour at the premises.
- Installing CCTV, storing images for a minimum of 30 days, making images available to the police upon request, and ensuring management staff are trained in the use of the system.
- Ensuring that non-alcoholic beverages are available at all times when alcohol is available for retail purchase.
- Implementation of a Challenge 21 policy.
- Provision of suitable food and non-alcoholic drink at all times during which children are allowed on the premises.

Full details of the variation and offered conditions can be viewed in sections 3 and 16 of the application form attached at **appendix 2**.

2.2 Relevant representations

- 2.2.1 On 01 August 2025 a relevant representation was received from the Chief Officer of Lincolnshire Police. The representation acknowledges that the conditions offered are well intentioned, but the police are of the opinion that they lack detail and clarity. Lincolnshire Police have proposed a more detailed set of conditions and have liaised with J D Wetherspoons. However, the parties have been unable to come to an agreement on the final conditions to be attached to the licence. A full copy of the Police representation is attached at **appendix 3**.
- 2.2.2 A party who has submitted a representation may choose to rely on their written submission or may attend the hearing to put their representation to the Sub-Committee. At the hearing the party may not add further representation to that disclosed to the applicant but may expand on the existing representation.

2.3 Options

- 2.3.1 In making their determination and having had regard to all information presented, the Sub-Committee must take such steps as considered appropriate for the promotion of the licensing objectives. These steps are set out in the Licensing Act 2003 Section 18 (4) as follows:
- To grant the licence, subject mandatory conditions and conditions in the operating schedule;
 - To grant the licence with modified conditions;
 - Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - To refuse to specify a person in the licence as the premises supervisor
 - To reject the application.

2.4 Considerations

- 2.4.1 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what would be suitable to achieve that end. This does not require a licensing authority to decide that no lesser step will

achieve the aim, but the authority should aim to consider the potential burden that the condition would impose on the Premises Licence holder as well as the potential benefit in terms of the promotion of the licensing objectives.

2.4.2 It is imperative that the Sub-Committee ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the licensing objectives and nothing outside of those parameters and determination must be based on an assessment of the evidence of both the risks and benefits either for or against making the determination.

2.4.3 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. If consideration is given to attaching or amending conditions, they:

- Must be appropriate for the promotion of the licensing objectives;
- Must be precise and enforceable;
- Must be unambiguous and clear in what they intend to achieve;
- Should not duplicate other statutory requirements or other duties or responsibilities placed on the licence holder by other legislation;
- Must be tailored to the individual type, location and characteristics of the premises and events concerned;
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Should not replicate offences set out in the 2003 Act or any other legislation;
- Should be proportionate, justifiable and capable of being met;
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.

2.4.4 In determining the application, the licensing authority must give appropriate weight to:

- The Licensing Authority’s Statement of Licensing Policy. Relevant extracts of which are attached at **appendix 4**.
- The statutory guidance issued under section 182 of the Licensing Act 2003. Relevant extracts of which, are attached at **appendix 5**.

2.5 Human Rights & Equalities

2.5.1 In determining the review the Sub-Committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Human Rights Act it is unlawful for a public authority to act in a manner which is incompatible with the European Convention on Human Rights.

2.5.2 When determining the application, the Sub-Committee should be satisfied that any decision which interferes with the rights of the licence holder, or of any other person, only does so insofar as is necessary to protect the rights of others and that no alternative decision would be more appropriate.

2.5.3 The Sub-Committee, in its decision-making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010. A copy of section 149 of the Act is attached at **appendix 6**.

2.6 Appeal

2.6.1 The applicant may appeal the decision made by the Sub-Committee to the Magistrates Court. Any appeal must be made within 21 days of the day on which the appellant is notified, in writing, by the Licensing Authority of the decision to be appealed against.

2.6.2 The determination does not take effect until the end of the period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

3. Conclusion

3.1 The Committee must come to its determination based on an assessment of the evidence of both the risks and benefits either for or against granting a licence.

3.2 When considering the evidence, the Sub-Committee must satisfy themselves whether or not the licensing objectives would be promoted as the application stands. The Sub-Committee must have regard to evidence, not speculation. In the case of a new application/new premises, the history and makeup of the site (and surrounding area) and the history of the applicant will be relevant, if sufficiently evidenced.

3.3 The Sub-Committee should seek to focus the hearing on the relevant parts of representations only and the steps considered appropriate to promote the particular licensing objective(s) that have given rise to the representations and avoid straying into undisputed areas. Any matter which is not about the likely effect of the grant of the licence on the promotion of one or more of the four licensing objectives is not, in accordance with the Licensing Act 2003, relevant and therefore cannot be considered.

3.4 The Sub-Committee must give full reasons for its decision.

3.5 In making its' determination, the Sub-Committee must evidence that they have had due regard for all that they have read and heard, to the Licensing Authority's Statement of Licensing Policy, the guidance issued under Section 182 of the Licensing Act 2003, and their public sector duty under Section 149 of the Equality Act 2010.

Implications

South and East Lincolnshire Councils Partnership

None

Corporate Priorities

Safe and Resilient Communities – We are working with partners and local communities to ensure the sub region is a place where people feel safe, secure and welcome.

Staffing

None

Workforce Capacity Implications

None

Constitutional and Legal Implications

There is a risk that an appeal is lodged with Lincolnshire Magistrate's Court against the decision of the Licensing Sub – Committee.

Data Protection

Certain personal details relating to the applicant have been redacted from the public agenda pack for data protection purposes.

Financial

None

Risk Management

There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters.

Stakeholder / Consultation / Timescales

None

Reputation

There is a risk that the Council's reputation could be damaged if the requirements of licensing legislation are not implemented in the prescribed manner.

Contracts

None

Crime and Disorder

The Council has a duty to promote and ensure compliance with the licensing objectives of, the prevention of crime and disorder, public safety, prevention of public nuisance, and the protection of children from harm.

Equality and Diversity / Human Rights / Safeguarding

Equality Implications: Under the Human Rights Act 1998, it is unlawful for a public authority to act in a manner that is incompatible with the European Convention on Human Rights.

Human Rights: The licensing authority must have due regard to its public sector equality duty under section 149 of the Equality Act 2010.

Safeguarding Implications: None

Health and Wellbeing

None

Climate Change and Environmental Implications

None

Acronyms

None

Appendices

Appendices are listed below and attached to the back of the report:

Appendix 1	Location plan
Appendix 2	Application form
Appendix 3	Representation - Lincolnshire Police
Appendix 4	Extract - Statement of licensing policy
Appendix 5	Extract – Section 182 Guidance
Appendix 6	Section 149 – Equality Act 2010

Background Papers

A report on this item has not been previously considered by a Council body.

Chronological History of this Report

None

Report Approval

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Approved for publication:	Not applicable