

Licensing Sub-Committee 4 – 28th April 2009

Report of the Interim Director of Law and Property

Application to Vary a Premises Licence

Purpose

- 1 To consider the application for variation of the premises licence in respect of The Que Pasa, 1 – 3 Ryemarket, Stourbridge, West Midlands.

Background

- 2 On the 4th March 2009, an application was received from John Gaunt & Partners Solicitors in respect of Que Pasa, 1 – 3 Ryemarket Street, Stourbridge, West Midlands, to vary a premises licence. The application for variation of licence is attached to this report as Appendix 1.
- 3 The application had the following documents enclosed:-
 - Correct Fee (£315.00)
 - Plan of the premises
4. On the 19th September 2005 an application to convert an existing licence to a premises licence was granted, that licence was subsequently varied on the 15th December 2005. The premises changed its name from the Toad at the Glassworks to Que Pasa on the 3rd April 2006, that licence was then transferred on the 28th November 2007, the current licence is issued for the following:-

Playing of Recorded Music

Mondays to Sundays 11.00 – 02.00

On Bank Holiday Weekends
each Thursday to Monday (inc) 11.00 – 04.00

Christmas Eve 11.00 – 02.00

From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day

International Sporting Events for those hours that coincide with the period of one hour before, during and one hour after the broadcast of any live international sporting event shown at the premises

Dancing

Monday to Sundays	11.00 – 02.00
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On Bank Holiday Weekends each Thursday to Monday (inc)	11.00 – 04.00
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Christmas Eve	11.00 – 04.00
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From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day

International Sporting Events for those hours that coincide with the period of one hour before, during and one hour after the broadcast of any live international sporting event shown at the premises

Late Night Refreshment

Monday to Saturdays	23.00 – 01.30
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Sundays	23.00 – 01.00
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Sale of Alcohol

Monday to Sundays	11.00 – 02.00
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On Bank Holiday Weekends each Thursday to Monday (inc)	11.00 – 04.00
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Christmas Eve	11.00 – 02.00
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From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day

International Sporting Events for those hours that coincide with the period of one hour before, during and one hour after the broadcast of any live international sporting event shown at the premises

Exhibition of a Film

Monday to Sundays	11.00 – 02.00
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On Bank Holiday Weekends each Thursday to Monday (inc)	11.00 – 04.00
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Christmas Eve	11.00 – 02.00
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From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day

International Sporting Events for those hours that coincide with the period of one hour before, during and one hour after the broadcast of any live international sporting event shown at the premises

Performance of a Dance/Live Music

Mondays to Saturdays 11.00 – 01.00

Sundays 12.00 – 00.30

Making Music

Monday to Sundays 11.00 – 02.00

On Bank Holiday Weekends
each Thursday to Monday (inc) 11.00 – 04.00

Christmas Eve 11.00 – 02.00

From the commencement of permitted hours on New Years Eve to the end of permitted hours on New Years Day

International Sporting Events for those hours that coincide with the period of one hour before, during and one hour after the broadcast of any live international sporting event shown at the premises

Entertainment of a similar description to making music/dance, performance of live music, playing of recorded music, performance of a dance

Mondays to Saturdays 11.00 – 01.00

Sundays 12.00 – 00.30

5. The current premises licence is in the name of Marston's PLC and the current designated premises supervisor is a Mr C J Mellins.
6. An application to vary this licence has been received as follows:

Sale of Alcohol/Regulated Entertainment (films/indoor sporting events/live music/recorded music/performance of dance/provision of facilities for making music/provision of facilities for dance). Anything of a similar description to making music/dance, performance of live music, playing of recorded music, performance of a dance

Sunday – Thursday inc 11.00 – 02.00
Friday & Saturday 11.00 – 03.00

Late Night Refreshment

Sunday – Thursday 23.00 – 02.00

Friday & Saturday 23.00 – 03.00

When hours for sale of alcohol are extended hours for regulated entertainment and late night refreshment are also extended.

7. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
8. Representations have been received from the West Midlands Police and are attached to this report as appendix 2.
9. Representations have also been received from a local resident a copy of that letter has been sent to the Committee Members and the Applicant in accordance with the Licensing Act 2003.
10. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

11. There are no financial implications.

Law

12. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, Part 3 Section 34.
13. Pursuant to Section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - (a) Hold a hearing to consider item, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) Having regard to the representations, take such of steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the Licensing objectives.
 - (c) The steps are:-
 - (1) to modify the conditions of licence;
 - (2) to reject the whole or part of the application.

14. Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where an application (or any part of an application) is granted or rejected under Section 35 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to:-
 - (a) the applicant;
 - (b) any person who made relevant representations in respect of the application and
 - (c) the Chief Officer of Police for the police area in which the premises are situated.
15. In pursuance of Regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005), the Licensing Authority must make its determination at the conclusion of the hearing.
16. In pursuance of Schedule 5, Section 4 if the Licensing Authority refuse to grant the application vary the premises licence, there is a right of appeal to the Magistrates' Court.
17. In pursuance of Schedule 5, Section 4(2) where the Licensing Authority grant an application to vary a premises licence in whole or in part. The applicant may appeal against any decision to modify the conditions of the licence under subsection 4(a) of section 35 of the Licensing Act 2003.
18. In pursuance of Schedule 5 Section 4(3) where a person who made relevant representations to the application desires to contend:-
 - (a) that any variation made ought not to have been made, or
 - (b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified item in a different way, under subsection 4(a) of Section 35 of the Licensing Act.

They have the right of appeal to the Magistrates' Court.

Equality Impact

19. This report complies with the Council's policy on equal opportunities.
20. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
21. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

22. That the Sub-Committee determine the application.

A handwritten signature in black ink, appearing to be 'P. J. Elliott', written over a horizontal line.

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INTERIM DIRECTOR OF LAW AND PROPERTY

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List of Background Papers - none