

**Licensing Sub-Committee 4 – 8<sup>th</sup> February 2011**

**Report of the Director of Corporate Resources**

**Application to Vary a Premises Licence**

**Purpose of Report**

1. To consider the application for variation of the premises licence in respect of the Broadstone Convenience Store, Two Gates, Tanhouse Lane, Halesowen, West Midlands, B63 2JR.

**Background**

2. On the 30<sup>th</sup> June 2005, an application was received from Cobbetts, Solicitors, on behalf of Pyramid Pub Management Ltd, in respect of The Broadstone Public House, Two Gates, Tanhouse Lane, Halesowen, to convert an existing licence into a premises licence and to vary the premises licence simultaneously.
3. The application had the following requisite certified copies of documents enclosed:-
  - (1) Relevant Justices On Licence
  - (2) Correct Fee (£250.00)
  - (3) Plan of the premises
  - (4) Consent of the proposed Designated Premises Supervisor
  - (5) Consent of the current licensee
4. The application to vary the premises licence was as follows:

To allow regulated entertainment

|                   |                            |
|-------------------|----------------------------|
| Friday & Saturday | 20.00 – 01.00 (Live Music) |
| Sunday            | 10.00 - 01.00              |

|                     |                                |
|---------------------|--------------------------------|
| Monday – Sunday inc | 10.00 – 01.00 (Recorded Music) |
|---------------------|--------------------------------|

To allow the sale of alcohol

|                           |               |
|---------------------------|---------------|
| Monday – Thursday inc     | 10.00 – 01.00 |
| Friday, Saturday & Sunday | 10.00 – 02.00 |

To remove all embedded restrictions under Licensing Act 1964, Children & Young Persons Act 1933, Cinematograph (Safety) Regulations 1955 and Sporting Events (Control of Alcohol) Act 1985.

5. Confirmation that copies of the application form and supporting documentation had been served on the relevant authorities was received.
6. Representations were received from The Directorate of the Urban Environment.
7. Representations were also received from local residents.
8. This matter was considered by the Licensing Sub-Committee on the 31<sup>st</sup> August 2005. The Committee resolved that the variation of the premises licence be granted as follows:-

Sale of Alcohol

|           |               |
|-----------|---------------|
| Monday    | 10.00 – 00.00 |
| Tuesday   | 10.00 – 00.00 |
| Wednesday | 10.00 – 00.00 |
| Thursday  | 10.00 – 00.00 |
| Friday    | 10.00 – 01.00 |
| Saturday  | 10.00 – 01.00 |
| Sunday    | 10.00 – 00.00 |

Regulated Entertainment:-

|                   |
|-------------------|
| Monday – Sunday   |
| 10.00 – 23.00     |
| (recorded music)  |
| Friday – Saturday |
| 20.00 – 23.30     |
| (live music)      |

**CONDITIONS**

All conditions set out as in the operating schedule, subject to the hours of opening Monday – Thursday and Sunday – 01.00, Friday and Saturday – 02.00

Regulated entertainment is not permitted outdoors.

The fitting of a sound-limiting device to restrict the level of music within the premises to the satisfaction of the Environment Health Officer.

The external drinking area shall not be used after 23.20 and will be cleared of all glassware by 23.30.

All doors and windows shall be kept closed during regulated entertainments.

The provision of acoustic cowls to extract vents serving the lounge area and bar area in the event that regulated entertainment is provided in the latter.

All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.

Signs in the car park to state:- No ball games, no sounding of horns and to leave the car park quietly.

The electrical installation be inspected by the competent electrician (eg. an approved NICEIC Contractor) and any recommended improvements be carried out.

All power sockets likely to be used for the purpose of providing electrical power to entertainment equipment shall be protected by a residual current device (RCD) having rated residual operating current not exceeding 30 milliamps to operate within 40 milli-seconds in accordance with the relevant British Standard and the Institution of Electrical Engineers.

The Sub-Committee note that the Licensee is to resolve the nuisance caused by his dog barking during the evening.

9. The premises licence was transferred on the 15<sup>th</sup> October 2008 into the name of Admiral Taverns.
10. On the 15<sup>th</sup> December 2010, a letter was received from Admiral Taverns confirming that the premises had been sold to Mr Javid Iqbal and was no longer part of their estate.
11. The premises licence was again transferred with immediate effect on the 22<sup>nd</sup> December 2010 into the name of Mr Javid Iqbal and the premises from that date to be known as The Broadstone Convenience Store. There is currently no DPS at the premises.
12. On the 23<sup>rd</sup> December 2010, Licensing Matters Limited on behalf of Mr Javid Iqbal made application for the variation of the premises licence in respect of the premises known as The Broadstone Convenience Store, Two Gates, Tanhouse Lane, Halesowen. A copy of that application is attached to this report as Appendix 1.
13. The application had the following requisite documents enclosed:-
  - Correct fee of £190.00
  - Plan of the premises
14. The application to vary the premises licence stated the hours as follows:-  
(However confirmation that those hours were incorrect was received following that application and the correct hours are set out in paragraph 18 below).

#### Sale of alcohol

|                   |               |
|-------------------|---------------|
| Monday – Thursday | 06.00 – 01.00 |
| Friday & Saturday | 06.00 – 02.00 |
| Sunday            | 06.00 – 01.00 |

To remove all activities apart from the sale of alcohol.

To amend the hours for the sale of alcohol.

To remove all existing conditions including the embedded conditions and replace them with conditions consistent with the operation of a convenience store.

To change the layout of the premises.

15. On the 5<sup>th</sup> January 2011, Gemma Goodwin of Licensing Matters Limited confirmed on behalf of her client, Mr Iqbal that following mediation with Trading Standards their client, Mr Iqbal wishes to attach the following 2 conditions to his application.
  - A refusal register shall be in place, maintained and made available to the authorities on request.
  - Staff must be trained in relation to the sale of alcohol before being authorised to make sales of alcohol. The training will be documented and made available to the authorities on request.
16. Copies of that e-mail together with a copy of an e-mail received from Trading Standards dated 4<sup>th</sup> January 2011 are attached to this report as Appendix 2.
17. Also, on the 17<sup>th</sup> January 2011, Gemma Goodwin of Licensing Matters Limited confirmed on behalf of her client Mr Iqbal that following mediation with Sarah Welch of the Environmental Health Department the addition of a further condition of licence as follows:-

Prevention of Public Nuisance

The outside area of the premises will be monitored by staff on a regular basis, any groups that congregate at the front of the store will be asked to move on if appropriate to do so.

18. Ms Goodwin also confirmed that a mistake had been made on the original application and that the hours should read as follows:-

Sunday – Thursday    06.00 – 00.00  
Friday & Saturday    06.00 – 01.00

(Thus concluding the only extension of hours is for a 6.00 am in the morning start).

A copy of the e-mail of confirmation is attached to this report as Appendix 3

19. Representations have been received from 14 local residents and have been forwarded to the applicant, Committee members and interested parties in accordance with the Licensing Act 2003.
20. Following receipt of copies of representations from residents, Licensing Matters Limited have sent out a letter of mediation. A copy of this letter is attached to this report as Appendix 4.
21. On 21<sup>st</sup> January 2010, two letters were received from residents withdrawing representations they had made in relation to the variation of the Premises Licence in respect of the Broadstones Convenience Store. The withdrawal of representations is on the prerequisite that the following conditions are attached to the licence.
  - 1) CCTV is to be installed, all recorded images to be retained for a period of 28 days and made available to the authorities on request. The outside of the premises will have CCTV coverage that will be monitored by staff on duty.

- 2) Whenever the DPS is not on the premises another person shall be nominated by them to be a responsible person to manage the premises.
  - 3) Posters will be on display asking the customers to respect the neighbours and leave quietly.
  - 4) Anybody who appears to look under the age of 21, will be asked for identification to prove they are over the age of 18.
  - 5) The only identification accepted will be passports, photo-card driving licences and government approved pass cards.
  - 6) A refusals register shall be in place, maintained and made available to the authorities on request.
  - 7) Staff must be trained in relation to the sale of alcohol before being authorised to make sales of alcohol. The training will be documented and made available to the authorities on request.
  - 8) The outside area of the premises will be monitored by staff on a regular basis. Any groups that congregate at the front of the store will be asked to move on if appropriate to do so.
  - 9) The hours for sale of alcohol for the shop will be reduced to Mon – Sun, 6am – 11pm.
22. 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**

23. There are no financial implications.

### **Law**

24. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
25. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
- 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,
  - 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.
  - The steps are:-

- To modify the conditions of licence;
  - To reject the whole or part of the application.
26. 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 :-
- the applicant;
  - any person who made relevant representations in respect of the application and
  - the Chief Officer of Police for the police area in which the premises are situated.
27. 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.
28. 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.
29. 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.
30. 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.

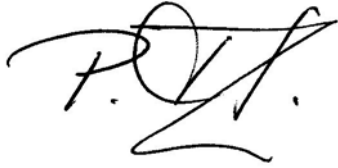
They have the right of appeal to the Magistrates' Court.

### **Equality Impact**

- 31. This report takes into account the Council's policy on equal opportunities.
- 32. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
- 33. There has been no consultation or involvement of children and young people in developing these proposals.

## **Recommendation**

34. That the Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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## **List of Background Papers**