

Licensing Sub-Committee 4 – 5th December 2006

Report of the Director of Law and Property

Application to Vary a Premises Licence

Purpose of Report

1. To consider the application for variation of the premises licence in respect of the Hasbury Inn, Hagley Road, Halesowen, West Midlands.

Background

2. On the 5th August 2005, an application was received from John Gaunt & Partners, Solicitors, on behalf of the Wolverhampton and Dudley Breweries, in respect of the Hasbury Inn, Hagley Road, Hasbury, Halesowen, West Midlands, to convert an existing licence into a premises licence and to vary the premises licence simultaneously.

3. The application to vary the premises licence was as follows:-

To allow the sale of alcohol and regulated entertainment (films/indoor sporting events/live music/recorded music/dance/provision of facilities for making music/dance)

Mon – Sat inc	10.00 – 00.00
Sun	12.00 – 23.30

To allow the provision of late night refreshment

Mon – Sat	23.00 – 00.00
Sun	23.00 – 23.30

New Years Eve 10.00 to New Years Day – terminal hour as proposed.

To permit the premises to open for licensable activities to show the broadcast of television sporting events of national or international interest outside normal operation hours such opening times for this purpose to be confirmed upon 14 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

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.

4. Confirmation that copies of the application form and supporting documentation had been served on the relevant authorities was received.
5. Representations were received from the Directorate of the Urban Environment and were brought to the attention of the Committee.
6. Representations were also received from a local resident and brought to the attention of the Committee.
7. This application was considered by the Committee on the 29th September 2005. The Committee resolved that the licence be granted for the following days, times and additional conditions:-

<u>Alcohol and Regulated Entertainment</u>		
Hours:		
Monday)	10.00 – 00.00
Tuesday)	
Wednesday)	
Thursday)	
Friday)	
Saturday)	
Sunday		12.00 – 11.30
CONDITIONS:		
All conditions set out as in the operating schedule.		
1. The Beer Garden shall not be used after 10.00 and all glassware cleared at that time.		
2. All doors and windows shall be kept closed during regulated entertainments and the gate leading to the play area to be kept locked at all times.		
3. Self closing devices shall be fitted to all doors leading to external areas.		
4. All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.		
5. Signs in the car park to state:- no ball games, no sounding of horns and to leave the car park quietly.		
6. To permit the broadcast of televised sporting events of national/international interest outside normal operating hours to be confirmed upon 14 days prior notice in writing to the police, the police having 7 days to object prior to the event.		

7. All fire doors to be alarmed and kept closed except in emergency.
8. The noise limiting device (NLD) shall be used on all power points used in connection with amplification equipment during Regulated Entertainment to the satisfaction of the Environmental Health Officer such NLD to be checked by the Environmental Health Officer before any regulated entertainment takes place.

8. On the 16th October 2006, an application was received from Flint, Bishop & Barnett for the variation of the premises licence as follows:-

‘To remove the condition that the beer garden shall not be used after 10.00pm and cleared of all glassware at that time’ to enable the premises to comply with the forthcoming no smoking legislation.

A copy of that application is attached to this report as appendix 1.

9. Confirmation that copies of the application form and supporting documentations have been served on the relevant authorities has been received.
10. Representations have been received from the Directorate of the Urban Environment and are attached to this report as appendix 2.
11. Two letters of objection have been received concerning noise nuisance. Copies of the letters have been sent to the committee members and the applicant in accordance with the Licensing Act 2003.
12. This application falls within the Council’s recent responsibility for liquor licensing, which has a direct link to the Council’s key priority that safety matters.

Finance

13. There are no financial implications.

Law

14. The law relating to the granting of application to vary premises licences governed by the Licensing Act 2003, Section 11, Part 3 and Schedule 8, Part 1.
15. 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 items, 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 steps mentioned in subsection (4) (if any) as it considers necessary for the promotions of the Licensing objectives.
 - The steps are:-

- to modify the conditions of licence;
 - to reject the whole or part of the application.
16. 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 applicant and
 - the Chief Officer of Police for the police area in which the premises are situated.
17. 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.
18. If the Licensing Authority refuse to grant the application to vary the premises licence, there is a right of appeal to the Magistrates Court pursuant to Schedule 5, Part 1(b).
19. Pursuant to Section 4(1), (2) and (3), Schedule 5 of the Licensing Act 2003, 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.

Where a person who made representations to the application desires to contend:-

- that any variation made ought not to have been made, or
- 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

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

Recommendation

23. That the Sub-Committee determine this application.

John Poyce

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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers