

Licensing Sub Committee - 5th August 2008

Report of the Director of Law and Property

Application for Grant of a Premises Licence

Purpose of Report

1. To consider the application for a Premises Licence in respect of the Arizona Crossing, High Street, Kingswinford, West Midlands DY6 8AA.

Background

2. On 5th August 2005, an application was received from Spirit Group Limited in respect of the Cross Hotel, High Street, Kingswinford, Dudley, to convert an existing Licence into a Premises Licence. That licence was granted on 19th September 2005.
3. On 15th September 2005, an application was received from Spirit Group Limited in respect of the Cross Hotel, High Street, Kingswinford, to vary the existing Premises Licence. That application was granted by the Committee on 31st October 2005. The Committee resolved that the application be granted for the following days, times and conditions.

Sale of Alcohol

Monday – Wednesday - 10.00 – 00.00

Thursday – Saturday - 10.00 – 01.00

Sunday - 10.00 – 23.30

Bank Holidays, Fridays, Saturdays, Sundays, Mondays and Thursday before Good Friday and Christmas Eve extend by one hour

Regulated Entertainment

Monday – Wednesday - 10.00 – 00.00

Thursday – Saturday - 10.00 – 01.00

Sunday - 10.00 – 23.30

Bank Holidays, Fridays, Saturdays, Sundays, Mondays and Thursday before Good Friday and Christmas Eve extend by one hour

Late Night Refreshment

Monday – Wednesday - 23.00 – 01.00

Thursday – Saturday - 23.00 – 01.30

Sunday - 23.00 – 00.30

Bank Holidays, Fridays, Saturdays, Sundays, Mondays and Thursday before Good Friday and Christmas Eve extend by one hour

Conditions:

All conditions set out as in the operating schedule.

1. All doors and windows shall be kept closed during regulated entertainments and in any event from 11.00pm.
 2. Suggested that secondary glazing be considered.
 3. All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.
 4. Signs in the car park to state:- No ball games, no sounding of horns, no playing music and to leave the car park quietly.
 5. The Licensee shall only contact taxi operators who agree not to sound horns after 11.00pm.
 6. The condition attached to the Public Entertainments licence requiring the admission after 10.30 shall be extended to 11.00 pm on Thursdays, Fridays and Saturdays.
 7. An additional CCTV camera shall be installed to scan the car park at the rear.
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4. On 24th January 2007, an application was received from TLT, Solicitors, in respect of the Cross Hotel, High Street, Kingswinford, to transfer the Premises Licence to the new applicants, Punch Taverns plc,. That licence was granted on 1st February 2007.
 5. On 17th May 2007, an application was received from TLT, Solicitors, on behalf of Punch Taverns plc, in respect of the Cross Hotel, High Street, Kingswinford, to vary the existing Premises Licence.
 6. The application was considered by the Licensing Sub-Committee on 3rd July 2007. It was resolved that the application be granted, with the following times conditions:-

Sale of Alcohol

Monday to Wednesday - 10.00 - 00.00

Thursday to Saturday - 10.00 - 01.30

Sunday - 10.00 - 11.30

Bank Holidays, Christmas Day and Boxing Day - withdrawn

Regulated entertainment

Monday to Wednesday	-	10.00 - 00.00
Thursday to Saturday	-	10.00 - 01.45
Sunday	-	10.00 - 11.30

Bank Holidays, Christmas Day and Boxing Day - withdrawn

Late Night Refreshment

Monday to Sunday - Existing hours to continue

Conditions:

All conditions of licence in accordance with operating schedule and application:

- 1: Designated Smoking Area approved as marked on the plan, subject to environmental Health ratification;
- 2: The outside area to be cleared of customers and glasses by 11.00pm. No consumption of drinks or alcohol beyond 11.00pm. Customers permitted to use the designated smoking area for smoking only beyond 11.00pm.
- 3: No children to be permitted in the bar area beyond 9.00pm and the dining area beyond 10.30pm and at all times to be accompanied by an adult (persons under the age of 18 years are considered children for this purpose).
- 4: SIA door staff will be on duty Thursday, Friday and Saturday and Bank Holiday evenings when live music or disco is being provided;
- 5: No alcohol promotions to be permitted on these premises;
- 6: Licensee to have dedicated taxi arrangements with local firm(s) to minimise nuisance to neighbours;
- 7: Two CCTV cameras monitoring the area of the car park to be retained;
- 8: The Licensee to provide a contactable telephone number to local residents (Mr Cole and Mr Brierley) and the local Councillors. This number to be displayed on the licence. We recommend that local residents who are concerned about the operation of these premises, report these concerns to their local Councillors and PACT meetings.
- 9: Any noise from regulated entertainment must not be audible to the nearest residential property (Mr Cole of 6 Moss Grove, Kingswinford);
- 10: A membership scheme will operate at the venue and only members of this scheme will be allowed entry after 11.00pm on Friday and Saturday evenings;

7. On 13th July 2007, the Cross Hotel changed its name to the Arizona Crossing.

8. Solicitors for the applicant subsequently appealed the Sub-Committee decision, to the Magistrates Court on the grounds that Condition (10), in its present form, does not allow the Licensee or his management team any discretion to permit “non-members” to the premises after 11.00pm on Friday and Saturday evenings. This was specifically provided for in the Memorandum of Understanding.
9. The Sub-Committee were of the opinion that there was little point in operating a membership scheme at the venue if the Licensee and his staff had discretion to allow members of the public into the premises who were not members.
10. Following the Sub-Committee hearing on the 3rd July 2007 and in light of the applicant’s appeal, the police were consulted in respect of the Memorandum of Understanding originally agreed between themselves and Mr Silcox. The detail of the membership scheme and the matter of discretion were still to be agreed. However, the police view was that the discretion element would have limited use and they did foresee that it would only be used in circumstances where family members or business associates of Mr Silcox attend the venue unannounced and without membership. This could be further re-enforced by a written record of non-members admissions. Circulated with the report to Sub-Committee Members, the applicant and interested parties, was an e-mail sent to the Licensing Officer by PC Scott Turley in relation to the proposed membership scheme.
11. Following discussions with the Legal Division, TLT solicitors obtained an adjournment of their appeal to the 20th September 2007 to enable the Sub-Committee to consider further representations in respect of Condition 10 of the Premises Licence in respect of Arizona Crossing.
12. A further Licensing Sub-Committee hearing took place on 20th November 2007, where it was resolved that the Premises Licence in respect of the Arizona Crossing be varied by the deletion of Condition 10 of the licence, relating to a membership scheme.
13. The current Premises Licence is issued for the following days and times:-

Playing of recorded music, dancing, performance of live music, entertainment of a similar description to performance of live music/playing of recorded music

Monday to Wednesday	-	10.00 - 00.00
Thursday to Saturday	-	10.00 – 01.45
Sundays	-	10.00 - 23.30

Bank Holiday Friday, Saturday, Sunday and Monday, Thursday before Good Friday and Christmas Eve, extended by one hour.

Late night Refreshments

Monday to Wednesday	23.00 – 01.00
Thursday to Saturday	23.00 – 01.30
Sunday	23.00 – 00.30

Bank Holiday Friday, Saturday, Sunday and Monday, Thursday before Good Friday and Christmas Eve, extended by one hour.

Sale of Alcohol

Monday to Wednesday	10.00 – 12.00
Thursday to Saturday	10.00 – 01.30
Sunday	10.00 – 23.30

Bank Holiday Friday, Saturday, Sunday and Monday, Thursday before Good Friday and Christmas Eve, extended by one hour.

14. The current Premises Licence Holder is Punch Taverns plc and the current Designated Premises Supervisor is Mr C K Silcox.
15. On 12th June 2008, an application was received from TLT, Solicitors, on behalf of Punch Taverns plc for a **new Premises Licence**. A copy of that application is attached to this report as Appendix 1. The application includes amendment to the licensing objectives and conditions that are attached to their current premises licence and to include additional bank holidays and to licence the upstairs function room as set out in the plans.
16. The details of the Premises Licence application are as follows:-

Regulated Entertainment

Live music, recorded music, provision of facilities for dancing, anything of a similar description to that falling within live music/recorded music/performance of dance, provision of facilities for dancing, provision of facilities for entertainment of a similar description to provision of facilities of making music/provision of facilities for dancing.

Monday to Wednesday	-	10.00 - 00.00
Thursday to Saturday	-	10.00 – 01.45
Sunday	-	10.00 – 23.30

Late night Refreshments

Monday to Wednesday	23.00 – 01.00
Thursday to Saturday	23.00 – 01.30
Sunday	23.00 – 00.30

Sale of Alcohol

Monday to Wednesday	10.00 – 12.00
Thursday to Saturday	10.00 – 01.30
Sunday	10.00 – 23.30

A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. A further additional hour every Christmas Eve and Boxing Day. From the start of permitted hours New Year's Eve to the close of permitted hours New Year's Day.

17. Confirmation that copies of the application form supporting documentation were served on the relevant authorities, has been received.
18. An objection was received from the Directorate of the Urban Environment. A copy of that objection is attached as Appendix 2.
19. Ten letters of objection have been received from local residents concerning public nuisance. A copy of those letters has been sent to the Committee Members, interested parties and the applicant, in accordance with the Licensing Act 2003.
20. 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

21. There are no financial implications.

Law

22. The law relating to the granting of applications for a premises licence is governed by the Licensing Act 2003, Section 11 Part 3 and Schedule 8, Part 1.
23. 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 of part of the application

24. Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where and 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.
25. 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.
26. If the Licensing Authority refuse to grant the application, there is a right of appeal to the Magistrates' Court pursuant to Schedule 5, Part 1(b).
27. Pursuant to Section 4(1), (2) and (3), Schedule 5 of the Licensing Act 2003, where the Licensing Authority grant an application 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 relevant 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

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

Recommendation

31. That the Sub-Committee determine the application.

John Prynne

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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers

None.