

Licensing Sub-Committee 1 – 10th August 2011

Report of the Director of Corporate Resources

Application for Review of a Premises Licence

Purpose of Report

1. To consider the application for the review of the premises licence in respect of the Painters Arms, Avenue Road, Coseley, West Midlands.

Background

2. On the 15th July 2005, an application was received from Holden's Brewery, in respect of the Painters Arms, Avenue Road, Coseley, West Midlands, 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:
(recorded music)
Monday – Sunday 10.00 – 00.30

To allow the sale of alcohol
Monday – Sunday 10.00 – 00.00

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 local residents and brought to the attention of the Committee.
7. This matter was considered by the Licensing Sub-Committee on the 9th September 2005. The Committee resolved that the licence be issued as follows:-

Sale of Alcohol

Monday – Sunday 10.00 – 00.00

Recorded Music

Monday – Sunday 10.00 – 23.00

Conditions

All conditions set out as in the operating schedule.

- All regulated entertainments, recorded music only 10.00 – 23.00 Monday – Sunday
 - No live music to be held on these premises
 - No consumption of alcohol to take place at the front or side of the premises
 - All doors and windows to the front and side of the premises shall be kept closed during regulated entertainment, save for access and egress
 - Indoor sporting events to be permitted on these premises
 - 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
 - Angle of deflection of external lighting to be reviewed to ensure coverage only of footway to the front of the premises and no consequent nuisance to local residents
8. That licence was subsequently transferred on the 12th December 2007 and again on the 10th September 2009.
 9. On the 7th July 2010, an application for the grant of a minor variation was received but was rejected and the applicant informed that a full application for variation must be submitted.

10. On the 8th April 2011, Grewty96 Ltd, Licensed Trade Consultants made application on behalf of Graham Roy Watkins for the variation of the premises licence in respect of the premises known as the Painters Arms, 31 Avenue Road, Coseley, Bilston, West Midlands. A copy of that application was forwarded to the Committee Members and interested parties in accordance with the Licensing Act 2003.
11. The application had the following requisite certified copies of documents enclosed:-
- 1) Correct fee (£190.00)
 - 2) Plan of the premises
 - 3) Current licence

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

Sale of Alcohol and Regulated Entertainment (films/indoor sporting events/live music/recorded music/anything of a similar description to live music and recorded music/provision of facilities for making music and dance)

Monday – Sunday 10.00 – 02.00

Late Night Refreshment

Monday – Sunday 23.00 – 02.00

The removal of the following conditions of licence

- All regulated entertainments, recorded music only 10.00 to 23.00 Monday to Sunday
- No live music shall be held on these premises
- No consumption of alcohol to take place at the front or side of the premises
- All doors and windows to the front and side of the premises shall be kept closed during regulated entertainments save for access and egress
- Indoor sporting events to be permitted on these premises
- All exit doors within the premises to have signs asking customers to leave 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
- Angle of deflection of external lighting to be reviewed to ensure coverage only of footway to the front of premises and no consequent nuisance to local residents

13. Confirmation that copies of the application form and supporting documentation had been served on the relevant authorities was received.
14. Representations were received from local residents and circulated to the applicant, Committee Members and interested parties in accordance with the Licensing Act 2003.
15. On the 4th May 2011, representations were received from Environmental Health (Food & Occupational Safety). A copy of that report was also circulated to the applicant, Committee Members and interested parties in accordance with the Licensing Act 2003.
16. The current premises licence holder is Mr G R Watkins.
17. Mediation took place between the West Midlands Police and the Applicant who agreed the following additional conditions.

The premises has CCTV covering the entrance/exit door, bar, lounge and car park area.

The recording will be kept for 30 days secure as per the provisions of the Data Protection Act and will be handed to the Police or authorised authorities on demand.

Ongoing risk assessments will be made by the management and any door staff used will be SIA registered door staff.

The details of the doorstaff will be kept showing name, address, badge number, hours and days worked and handed to the Police or authorised responsible authorities on demand.

18. This matter was considered by the Licensing Sub-Committee on the 7th June 2011. The Committee resolved that the matter be adjourned for the following reason:-

The Committee was aware that a premises licence review would be bought within 7 days and that also, a prosecution was being considered. Therefore, the Committee understood that significant information regarding this premises would be put before the Licensing Committee in the very near future.

It was therefore, not in the public interest to consider the variation application at that point when a review will be considered at which all relevant evidence and representations will be available to the Committee and all parties.

The application for variation was therefore adjourned until after the hearing of the premises review.

19. On the 15th June 2011, an application for the review of the premises licence was received from Food and Occupational Safety Manager. A copy of that application has been circulated to Committee Members and interested parties in accordance with the Licensing Act 2003.

20. The Council has advertised the application for review of the premises licence in accordance with the Licensing Regulation S1, 2004, No 42, Section 38. A copy of that notice is attached to this report as Appendix 1.
21. Confirmation that the application has been served on the relevant authorities has been received.
22. Representations have been received from the West Midlands Police and have been circulated to the applicant, Committee Members and interested parties in accordance with the Licensing Act 2003. Included in those documents is a statement from the Licensing Enforcement Officer outlining his findings.
23. Letters have also been received from local residents who previously objected to the variation of the premises licence. Those letters requested that their previous comments be taken into consideration at the review of the premises licence. Copies of those letters have also been forwarded to the Committee Members, the applicant and interested parties in accordance with the Licensing Act 2003.
24. 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

25. There are no financial implications.

Law

26. The law relating to the review of licences is governed by the Licensing Act 2003 Section 52(1).

Determination of application for review

52(1) This section applies where:-

- a) The relevant licensing authority receives an application made in accordance with section 51,
 - b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
 - c) the authority has complied with any requirement imposed on it under subsection (3)(b) or (d) of that section
27. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
 28. The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.
 29. The steps are -

- a) to modify the conditions of the licence;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding three months;
- e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 30. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
- 31. Where the authority takes a step mentioned in subsection (4) (a) or (b) it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify,
- 32. In this section “relevant representations” means representations which -
 - (a) are relevant to one or more of the licensing objectives, and
 - (b) meet the requirements of subsection (8).
- 33. The requirements are -
 - (a) that the representations are made –
 - (i) by the holder of the premises licence, a responsible authority or an interested party, and
 - (ii) within the period prescribed under section 51(3)(c)
 - (b) that they have not been withdrawn, and
 - (c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- 34. Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- 35. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to -
 - a) the holder of the licence
 - b) the applicant

- c) any person who made relevant representations, and
 - d) the chief officer of police for the police area (or each police area) in which the premises are situated.
36. A determination under this section does not have effect -
- a) until the end of the period given for appealing against the decision, or
 - b) if the decision is appealed against, until the appeal is disposed of
- Pursuant to schedule 5 part 1, section 8(2)
37. An appeal may be made against the decision of the committee by –
- a) the applicant for the review
 - b) the holder of the premises licence or
 - c) any other person who made relevant representations in relation to the application for review.

Equality Impact

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

Recommendation

41. That the Sub-Committee determine the review of the premises licence in respect of the Painters Arms.



.....
DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs. J. Elliott 5377
Telephone: 01384 815377
Email: janet.elliott@dudley.gov.uk

List of Background Papers