

Licensing Sub-Committee 4 – 16th December 2014

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 premises known as The Swan, Stream Road, Kingswinford, DY6 9NW

Background

2. The Swan, was first issued with a premises licence on the 12th January 2006.
3. The current premises licence is issued for the following:

Sale of Alcohol

Sunday until Thursday	09.00 until 00.00
Friday and Saturday	09.00 until 01.00

Non-Standard timings – To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed 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 show.

Residents in the accommodation should be entitled to be supplied with alcohol throughout the day.

From 08.00 hrs on Saturday, Sunday and Bank Holiday Mondays when Wolverhampton Wanderers FC are playing an away match only.

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

Regulated Entertainment

Non-standard timings – when the hours for the sale of alcohol are
Extended these hours are also extended.

Monday to Thursday	10.00 until 00.00
Friday and Saturday	10.00 until 01.00
Sunday	11.00 until 00.00

Late Night Refreshments

Monday to Sunday	23.00 until 05.00
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4. The current premises licence holder is Marston's PLC.
5. On the 22nd October 2014, John Gaunt & Partners, made application on behalf of Marston's plc for the variation of the premises licence in respect of the Swan, Stream Road, Kingswinford.
6. The application for variation of licence is as follows:

The premises is to have the benefit of a refurbishment which will significantly enhance both the internal and external operation of the premises.

As per drawing PO914/3827/5.0 Rev E which will be circulated at the Committee Hearing.

Brief Description

Internally.

To the right of the premises a food dispense counter is to be constructed along with the construction of booth seating which will be for the purpose of adult dining.

To the centre of the premises the bar servery will be slightly reduced in size so as to provide a cake display area, furthermore the current lobby entrance to the front of the premises is to be removed so as to provide increased space for dining. That door will remain for the purposes of fire evacuation however a new entry point will be created into the dining area with improved disabled access by virtue of a ramp thereby providing easier accessibility from the car park.

To the left of the premises a more family orientated area for dining purposes is to be created with two family booths being formed.

Externally

The premises currently has the benefit of a patio which has historically been used for consumption only. That area is to be re landscaped and significantly enhanced with the benefit of an improved children's play area, external booth seating which will be used for dining purposes and new fixtures and fittings to the patio and garden surrounding it. This area is sought to be licensed in relation to retail sale of alcohol and late night refreshments only and to the same hours as the operation of the interior of the premises.

To the rear of the property a new smoking deck is to be constructed and it is proposed that this shall be licensed as to the same time as the premises but again restricted to retail sale of alcohol and late night refreshment only.

The content of the premises licence has been reviewed and no conditions are sought to be amended however it is proposed that the narrative endorsed on the 27th November 2013 (see below) does not constitute a condition and can be removed.

Additional steps taken in order to promote the four licensing objectives as a result of the variation granted on 27th November 2013.

a) General – all four licensing objectives

Application is made to bring forward the opening time so as to facilitate the provision of traditional English breakfast. It is not envisaged that any problem will flow from the earlier opening and alcohol sales are anticipated to be of a limited nature.

The operating schedule has been completed on this basis and the above is provided by way of explanation and not intended to be converted to conditions.

7. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
8. 12 letters raising objections to the application have been received from local resident, copies of those letters have been circulated to the premises licence holder, Committee Members and Interested parties in accordance with the Licensing Act 2003.
9. On 21st November 2014, representations were received from the Environmental Safety and Health Department, copies of those representations have been circulated to Committee Members, the premises licence holder and interested parties.
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:-
 - 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 appropriate 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.
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 :-
 - 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.
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.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

None