

Licensing Sub-Committee 3

3rd July 2007

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 Corn Exchange, Amblecote Road, Brierley Hill, West Midlands.

Background

- 2 On the 24th August 2005, an application was received from Spirit Group Limited in respect of The Corn Exchange, Amblecote Road, Brierley Hill, West Midlands, to vary a premises licence.
- 3 The application had the following documents enclosed:-
 - Correct Fee (£315.00)
 - Plan of the premises
- 4 The application to vary the premises licence was as follows:

To allow the sale of alcohol, and provision of regulated entertainment:-

(films/live music/recorded music/dance)

Mon – Wed	10.00 – 00.00
Thurs – Sat	10.00 – 01.00
Sun	10.00 – 00.00

Provision of late night refreshment:

Mon – Wed	23.00 – 01.00
Thurs – Sat	23.00 – 02.00
Sun	23.00 – 01.00

For statutory bank holiday weekend periods (Friday, Saturday, Sunday, and Monday) and for the Thursday before Good Friday and for Christmas Eve, the

finish time will be extended by one hour beyond these times. On occasion of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.

On St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour, with seven days notice and agreement of the police.

On the 2nd August, 2005, these premises applied to convert their licence which was granted on the 19th September 2005.

- 5 Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities was received.
- 6 Representations were received from local residents and brought to the attention of the Committee.
- 7 Representations were also received from the Directorate of the Urban Environment and are brought to the attention of the Committee.
- 8 This matter was considered by the Committee on the 15th November 2005. The Committee resolved that the licence be issued for the following days, times and additional conditions:-

Variation of Premises Licence – Alcohol and late night refreshments

Hours:

Monday	-	10.00 – 23.00
Tuesday	-	10.00– 23.00
Wednesday	-	10.00 – 23.00
Thursday	-	10.00 – 00.00
Friday	-	10.00 – 00.00
Saturday	-	10.00 – 00.00
Sunday	-	11.00 – 23.00
Bank Holiday	-	10.00 – 00.00
Christmas Day	-	10.00 – 00.00
Boxing Day	-	10.00 – 00.00

No other extension of hours permitted within this licence.

CONDITIONS:

All conditions set out as in the operating schedule.

- All regulated entertainments shall end at 23.00 7 days per week.
- The Beer Garden and Car Park shall be cleared of customers and glassware by 23.00 hours.

- All doors and windows shall be kept closed during regulated entertainments save for access and egress.
 - 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, no car stereos and to leave the car park quietly.
 - Door supervisors to be present at all times during period of entertainment and to remain on the premises for a minimum of 30 minutes after the sale of alcohol has ceased.
 - Other conditions as per Environmental Health recommendations (noise limiter/security post). Recommendation that licensee and brewery organise regular meetings with local residents to resolve problems as they arise.
- 9 The decision of the Committee was appealed at the Magistrates Court at Dudley, the date of the appeal was set for the 8th March 2006.
- 10 Following agreement between the Appellant, Dudley Metropolitan Borough Council and objectors a consent order was made under Section 181(2)(b) and the premises licence be amended as follows:-
- The sale by retail of alcohol and the provision of late night refreshment shall be allowed as follows:-
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|---|---------------|
| Mondays to Wednesday | 10.00 – 23.00 |
| Thursday to Saturdays and Bank Holidays | 10.00 – 00.00 |
| Sunday | 11.00 – 23.00 |
- The provision of regulated entertainment (as applied for) shall be allowed as follows:-
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|--|---------------|
| Sunday to Wednesdays | 10.00 – 23.00 |
| Thursdays to Saturdays and Bank Holidays | 10.00 – 23.30 |
- The conditions relating to the presence of door supervisors shall be varied to read:
- On Thursday to Saturdays, door supervisors shall be present when regulated entertainment is taking place and shall remain on the premises for at least half an hour after the sale of alcohol ceases.
- The remaining terms and conditions of the Premises Licence remained unaltered.
- 11 That licence was transferred on the 7th June 2006.
- 12 On the 16th May 2007, Orchid Pubs Tyne Limited (formerly Spirit Group Limited), holders of the current premises licence made application for the

variation of the premises licence. A copy of that application is attached to this report as Appendix 1.

13 The current Designated Premises Supervisor is Mr B J Wilson.

14. The application had the following documents enclosed:-

- Correct fee (£315.00)
- Plan of the premises.

15 The application to vary the premises licence is as follows:-

To remove the condition which states 'The beer garden and car park shall be cleared of customers and glassware by 23.00 hrs'.

16 Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.

17 Following consultations with the police the applicant Orchid Group agreed the following amendment to the condition of licence.

The beer garden and car park be cleared of glassware by 23.00 hrs.

18 Representations were received from the Directorate of the Urban Environment and are attached to this report as Appendix 2.

19 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

20 There are no financial implications.

Law

21 The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, Section 11, Part 3 and Schedule 8, Part 1.

22 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.

23 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.

24 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.

25 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).

26 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 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 it 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

27 This report complies with the Council's policy on equal opportunities.

28. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.

29. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

30. That the Sub-Committee determine the application.

John Poyles

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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers