

Licensing Sub-Committee 2 – 12th January 2010

Report of the Director of Corporate Resources

Application to Vary a Premises Licence

Purpose

1. To consider the application for variation of the premises licence in respect of The Bell Hotel, 20 Market Street, Stourbridge, West Midlands.

Background

2. On the 13th November 2009, an application was received from Flint Bishop Solicitors on behalf of Marston's PLC in respect of The Bell Hotel, 20 Market Street, Stourbridge, West Midlands, to vary a premises licence. The application for variation of licence is attached to this report as Appendix 1.
3. The application had the following documents enclosed:-
 - Correct Fee (£190.00)
 - Plan of the premises
4. On the 21st September, 2005 an application to convert the existing licence to a premises licence was granted, that licence was subsequently transferred on the 15th April 2007 and the 2nd April 2008, the current licence is issued for the following: -

Sale of Alcohol

Monday – Wednesday	07.00 – 00.00
Thursday – Sunday	07.00 – 02.00

Until 02.00 Monday at Bank Holiday Weekends, Christmas Eve and Boxing Day, New Years Eve 10.00 to New Years Day terminal hour as proposed. Residents in the accommodation should be entitled to be supplied with alcohol throughout the day or night.

Regulated Entertainment (playing of recorded music/dancing/exhibition of a film/indoor sporting events/performance of dance/live music/making music)

Monday – Wednesday 07.00 – 00.00
Thursday – Sunday 07.00 – 02.00

When hours for sale of alcohol are extended hereunder these hours are also extended New Years Eve 10.00 to New Years Day terminal hour as proposed.

Late Night Refreshment

Monday to Sunday 23.00 – 05.00

When hours for sale of alcohol are extended hereunder these hours are also extended New Years Eve 10.00 to New Years Day terminal hour as proposed.

5. An application was then received from Flint Bishop Solicitors on behalf of Ms J Willetts to vary that licence on the 6th March 2009 for the following:-

Sale of Alcohol

Sunday – Thursday 07.00 – 02.00
Friday & Saturday 07.00 – 03.00

New Years Eve as per existing licence

Regulated Entertainment (films/indoor sporting events/live music/recorded music/dance/provision of facility for making music/dance)

Sunday – Thursday 07.00 – 02.00
Friday & Saturday 07.00 – 03.00

Late Night Refreshment

Sunday – Thursday 23.00 – 02.00
Friday – Saturday 23.00 – 03.00

Removal of occupancy limit as condition of licence
Removal of standard conditions 1 to 48

New Years Eve as per existing licence

6. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
7. Representations were received from a local resident, the West Midlands Police and the West Midlands Fire Service.
8. That application was subsequently withdrawn on the 24th March 2009.
9. On the 9th April 2009, the premises was transferred into the name of Marstons plc.
10. On the 27th May 2009, Flint Bishop Solicitors made application on behalf of Marstons plc for the variation of premises licence as follows:-

Sale of alcohol and regulated entertainment (film/indoor sporting events/live music/recorded music/dance/making music/facilities for dance)

Sunday – Thursday 07.00 – 02.00

Friday & Saturday 07.00 – 04.00

Late Night Refreshment

Sunday – Thursday 23.00 – 02.00

Friday & Saturday 23.00 – 04.00

New Years Eve as existing licence

That application was also to remove standard conditions 1 – 48.

11. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
12. The West Midlands Police made representations, which were brought to the attention of the Committee.
13. Representations were also received from a local resident along with a petition. A copy of that letter and petition was circulated to Committee Members and the applicant in accordance with the Licensing Act 2003.
14. This matter was considered by the Licensing Sub-Committee on the 14th July 2009. The Committee resolved that the application be refused for the following reasons:

The Committee was satisfied that the extension of licensing hours for the Bell Hotel will have detrimental impact on the incidence of violent crime within the Cumulative Impact Policy Area and therefore refused the application for extension of licence hours.

15. On the 13th November 2009, Flint Bishop Solicitors made application on behalf of Marston's plc for the variation of the premises licence as follows:-

Sale of alcohol/regulated entertainments (films/indoors sporting events/live music/recorded music/performance of dance/provision of facilities for making music and dance.

Sunday – Thursday 07.00 – 03.00

Friday & Saturday 07.00 – 04.00

Late Night Refreshments

Monday – Sunday 23.00 – 05.00

New Years Eve as per existing licence

To remove the occupancy limit (Condition 7 – crime and disorder) as a condition of the licence

To remove standard conditions 1 to 48 under the heading 'conditions' on the licence.

16. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
17. The West Midlands Police have made representations in respect of the application. A copy of that report is attached as Appendix 2.
18. Representations have been received from 2 local residents. A copy of those representations has been circulated to the Applicant, Committee Members and Interested Parties in accordance with the Licensing Act 2003.
19. In October 2007 the Licensing and Safety Committee approved the introduction of a special cumulative impact policy for Stourbridge Town Centre. A copy of the map of the area within the cumulative impact policy is attached as Appendix 3.
20. This special policy creates a rebuttable presumption that applications for a new premises licence/club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The policy will be subject to review in October 2010.

21. The current premises licence holders are Marston's plc and the current designated premises supervisor is Mr A Waldron.
22. 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

23. There are no financial implications.

Law

24. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, Part 3 Section 34.
25. Pursuant to Section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - (a) 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

- (b) 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.
 - (c) The steps are:-
 - (1) to modify the conditions of licence;
 - (2) to reject the whole or part of the application.
26. 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:-
- (a) the applicant;
 - (b) any person who made relevant representations in respect of the application and
 - (c) the Chief Officer of Police for the police area in which the premises are situated.
27. 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.
28. 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.
29. 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.
30. 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

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

32. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
33. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

34. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers - none