

**Licensing Sub-Committee 2**

**26<sup>th</sup> June 2007**

**Report of the Director of Law and Property**

**Application to Vary a Premises Licence**

**Purpose**

- 1 To consider the application for variation of the premises licence in respect of The Brook, Bourne Street, Woodsetton, Dudley, West Midlands

**Background**

- 2 On the 1<sup>st</sup> September 2005, an application was received from John Gaunt & Partners on behalf of Wolverhampton & Dudley Breweries in respect of The Brook, Bourne Street, Woodsetton, Dudley, West Midlands, for the grant of a premises licence.
- 3 This application was considered by Committee on the 18<sup>th</sup> October 2005, where it was resolved that the application for premises licence be granted for the following days and times with the following conditions.

**HOURS**

**SALE OF ALCOHOL**

Monday – Thursday	10.00 – 23.00
Friday	10.00 – 00.00
Saturday	10.00 – 00.00
Sunday	12.00 – 22.30

Bank Holiday	To midnight Friday/Saturdays
To include Christmas Eve and Boxing Day	Sunday/Mondays

All regulated entertainments shall end

Monday – Thursday	22.30
Friday – Saturday	23.30
Sunday	22.00

The beer garden shall not be used after 23.00 and all glasses to be cleared by 23.30 (Sundays 22.30 glasses 23.00)

All doors and windows shall be kept closed during regulated entertainments save for access and egress and fitted with a self closing mechanism.

Late night refreshment permitted Fridays and Saturdays to 00.00.

All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.

The external speaker to be removed.

To permit the broadcast of televised sporting events of national/international interest outside normal operating hours to be confirmed upon 14 days prior notice in writing to the police, the police having 7 days to object prior to the event.

Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

4. The current premises licence is held by Mr David William Cooper and the current designated premises supervisor is Patricia Esther Crutchley.
5. On the 9<sup>th</sup> May 2007 an application was received from Flint Bishop Solicitors on behalf of Mr D W Cooper, in respect of the Brook, Bourne Street, Woodsetton, Dudley, West Midlands to vary a premises licence. The application for variation of licence is attached to this report as Appendix 1.
6. The application had the following documents enclosed:-
  - Correct Fee (£190.00)
  - Plan of the premises
7. The application to vary is as follows:
  - 1: To carry out alterations to the licensable area in accordance with Drawing No. 02, dated 09.02, deposited with the application, and is attached to this report as Appendix 2.
  - 2: To remove the condition that 'The Beer Garden shall not be used after 23:00 and all glasses to be cleared by 23:30 (Sundays 22:30 glasses 23:00)' and substitute it with a condition that 'The Beer Garden shall not be used for licensable activities or the consumption of alcohol after 23:00 and all glasses to be cleared by 23:30 (Sundays 22:30 glasses 23:00)', to enable the premises to comply with the forthcoming No Smoking legislation
8. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.

9. Representations have been received from The Brook, Bourne Street Neighbourhood Watch. Copies of this letter has been sent to the Committee Members interested parties and the Applicant in accordance with the Licensing Act 2003.
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, Section 11, Part 3 and Schedule 8, Part 1.
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 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.
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. 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).
17. 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 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**

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

### **Recommendation**

21. That the Sub-Committee determine the application.

*John P. ...*

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DIRECTOR OF LAW AND PROPERTY

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**List of Background Papers**  
None