

**Licensing Sub-Committee 2 - 21st November 2006**

**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 Birch Coppice, Woodland Avenue, Quarry Bank, West Midlands.

**Background**

2. On the 26<sup>th</sup> September 2006, an application was received from TLT Solicitors, in respect of The Birch Coppice 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 19<sup>th</sup> September 2005, an application to convert the licence was granted. That licence was subsequently transferred on the 1<sup>st</sup> March 2006. That licence is for the following days, times and activities:

Recorded Music (permitted as per Section 182 of the Licensing Act 1964).

Sale of Alcohol :-

Monday – Saturday	10.00 – 23.00
Sunday and Good Friday	12.00 – 22.30
Christmas Day	12.00 – 15.00
	19.00 – 22.30

We have now received an application to vary this licence which is as follows:

To extend the Sale of Alcohol and Recorded Music:-

An additional hour Monday to Thursday inclusive (until 00.00)

An additional two hours every Friday and Saturday (until 01.00)

An additional thirty minutes every Sunday (until 23.00)

To permit live music and karaoke:-

10.00 – 00.00	Monday to Thursday inclusive
10.00 – 01.00	Friday and Saturday
12.00 – 23.00	Sunday.

For all the above activities:-

An additional hour into the morning following every Christmas Eve and Boxing Day.

On the 31<sup>st</sup> December to remain continuously open for the sale of alcohol (as per the permission under Licensing Act 1964) and licensable activities through to permitted opening hours on the 1<sup>st</sup> January.

An additional 10 minutes drinking up time to be permitted to allow 30 minutes drinking after the last permitted sale of alcohol.

To remove all current children's certificate conditions, to be replaced with a condition allowing children under the age of fourteen to remain on the premises after 21.00 if attending a private function at the premises.

5. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
6. We have received objections from local residents concerning noise nuisance, copies of those letters have been sent to the committee Members and the applicant in accordance with the Licensing Act 2003.
7. Objections have also been received from the Director of the Urban Environment and are attached to this report as Appendix 2.
8. We have received previous complaints from local residents which have been dealt with by the Licensing Enforcement Team.
9. 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**

10. There are no financial implications.

## **Law**

11. 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.
12. 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.
13. 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.
14. 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.
15. 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).

16. 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 a right of appeal to the Magistrates' Court.

### **Equality Impact**

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

### **Recommendation**

20. That the Sub-Committee determine the application.

*John Poyalis*

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DIRECTOR OF LAW AND PROPERTY

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### **List of Background Papers**

None