

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 Cross Hotel, High Street, Kingswinford, West Midlands.

Background

2. On the 5th August 2005, these premises applied to convert their licence, which was granted on the 26th September 2005.
3. On the 15th September 2005, an application was received from Spirit Group Limited in respect of The Cross, High Street, Kingswinford, West Midlands, to vary a premises licence.
4. The matter was considered by Committee on the 31st October 2005, where the Committee resolved that the application be granted with the following conditions:-

<u>Hours:</u>	<u>Alcohol</u>	<u>Regulated Entertainment</u>	<u>Late Night Refreshment</u>
Monday	10.00-00.00	10.00-00.00	23.00-01.00
Tuesday	10.00-00.00	10.00-00.00	23.00-01.00
Wednesday	10.00-00.00	10.00-00.00	23.00-01.00
Thursday	10.00-01.00	10.00-01.00	23.00-01.30
Friday	10.00-01.00	10.00-01.00	23.00-01.30
Saturday	10.00-01.00	10.00-01.00	23.00-01.30
Sunday	10.00-23.30	10.00-23.30	23.00-00.30

Bank Holidays Fridays, Saturdays, Sundays and Mondays - and Thursday before Good Friday and Christmas Eve extend by one hour

CONDITIONS:

All conditions set out as in the operating schedule.

1. All doors and windows shall be kept closed during regulated entertainments and in any event from 11.00 p.m.

2. Suggested that secondary glazing be considered.
 3. All exit doors within the premises to have signs asking customers to leave the premises quietly and respect local residents and their premises.
 4. Signs in the car park to state:- No ball games, no sounding of horns, no playing of music and to leave the car park quietly.
 5. The Licensee shall only contact taxi operators who agree not to sound horns after 11.00 p.m.
 6. The condition attached to the Public Entertainments Licence requiring the admission after 10.30 shall be extended to 11.00 p.m. on Thursdays, Fridays and Saturdays.
 7. An additional CCTV camera shall be installed to scan the car park at the rear.
5. That licence was transferred on the 1st February 2007.
 6. On the 17th May 2007, an application was received from TLT Solicitors in respect of The Cross, High Street, Kingswinford, West Midlands to vary a premises licence.
 7. The application had the following documents enclosed:-
 - Correct fee (£190.00)
 - Plan of the premises
 8. The application to vary the licence is as follows:-

To vary the layout and design of the premises in accordance with the submitted plan.

To allow sale of alcohol

Thursday to Saturday 10.00 – 01.30

To allow regulated entertainment

Recorded music/live music/dancing/entertainment of a similar description.

Thursday to Saturday 10.00 – 01.45

For the above a further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. A further additional hour every Christmas Eve and Boxing Day. From the start of permitted hours New Years Eve to the close of permitted hours New Years Day.

Removal of condition 41 “the licensee shall give at least two clear days prior written notice to the Council, Chief Fire Officer of the West Midlands Fire Service and the Chief Officer of Police for the area in which the licensed premises are situated of any entertainment intended to be held on the licensed premises which involves public dancing”.

Removal of the condition “when children are allowed upon the premises, any entertainment offered within the premises will be suitable to young persons”.

Any part of the variation application that changes the plan/layout at the premises to be of no effect until the work has been completed.

9. Punch Taverns plc is the current premises licence holder and Mr Christopher Silcox is the current designated premises supervisor.
10. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
11. Representations have been received from local residents and have been circulated to Committee Members, the applicant and interested parties.
12. Representations have been received from the West Midlands Police and are attached to this report as Appendix 2.
13. 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

14. There are no financial implications.

Law

15. 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.
16. 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 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.
17. 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.
18. 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.
19. 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).
20. 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 them 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

21. This report complies with the Council's policy on equal opportunities.
22. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.

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

Recommendation

24. 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

None.