

Licensing Sub-Committee 4 – 6th November 2012

Report of the Director of Corporate Resources

Application to Vary a Premises Licence –

Hope Tavern, 50 Cinder Bank, Netherton, Dudley

Purpose of Report

1. To consider the application for variation of the premises licence in respect of the premises known as Hope Tavern, 50 Cinder Bank, Netherton, Dudley, West Midlands, DY2 9BB.

Background

2. The Hope Tavern was first issued with a premises licence on the 19th September 2005. That licence was subsequently transferred on the 11th April 2006 and again on the 27th April 2006, 16th August 2006, 5th September 2006, 26th April 2007, 30th December 2009 and again on the 7th December 2011.
3. The current premises licence is issued as follows:-

Sale of Alcohol and Regulated Entertainment

Mondays – Saturday	10.00 – 00.00
Sundays	12.00 – 00.00

Late Night Refreshment

Monday – Sunday	23.00 – 00.00
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When hours for sale of alcohol are extended hereunder the hours for regulated entertainment/late night refreshment are also extended.

New Years Eve 10.00 to New Years Day terminal hour as proposed.

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed 14 days prior notice in writing to the police before the premises intend to open such

notification to include the opening times and the sporting event which is to be shown.

4. The current premises licence holder is Mr D S Sangha.
5. On the 21st September 2012, Mr Sangha made application for the variation of the premises licence. A copy of that application has been circulated to the Committee Members and interested parties in accordance with the Licensing Act 2003.
6. The application had the following documents enclosed:-
 - Correct fee of £190.00
 - Plan of the premises
7. The application is as follows:-

Sale of Alcohol/Recorded Music/Performance of Dance

Monday – Thursday	10.00 – 00.00
Friday – Sunday	10.00 – 02.00
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 Councillor Zada, Councillor Duckworth and Councillor Wood on behalf of local residents. A copy of those representations have been served on the applicant, Committee Members and all interested parties in accordance with the Licensing Act 2003.
10. It should be noted however that the Licensing Sub-Committee cannot under the Licensing Act 2003 consider parking as a relevant issue to this variation application.
11. The Licensing Enforcement Officer, Mr Brian Hughes visited the premises on Wednesday 3rd October 2012. Mr Hughes spoke with the Designated Premises Supervisor regarding a complaint of music being heard well into the early hours on the previous Sunday morning. It transpired however that the premises had in force a temporary event notice (TENS) on that particular night which allowed music to be played until 2.00am
12. Temporary Event Notices can only be objected to by the West Midlands Police or the Environmental Health Department. In this case neither agency made any objection and therefore notices were issued for the 29th and 30th September and the 12th, 13th and 14th October 2012. A late Temporary Event Notice was received for the 20th October 2012, representations were received from the West Midlands Police and as a consequence the Temporary Event Notice was refused.
13. Representations have been received from a number of local residents including a petition. A copy of those representations have been served on the applicant, Committee Members and all interested parties.

14. Representations were also received from the West Midlands Police and Food and Occupational Safety. Those representations were also forwarded to the applicant, Committee Members and interested parties in accordance with the Licensing Act 2003.
15. 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

16. There are no financial implications.

Law

17. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
18. 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.
19. 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.
20. 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.

21. 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.
22. 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.
23. 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.

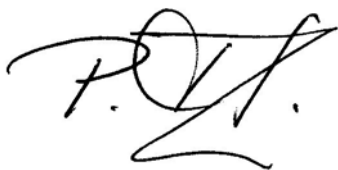
They have the right of appeal to the Magistrates' Court.

Equality Impact

24. This report takes into account the Council's policy on equal opportunities.
25. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
26. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

27. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

None