

Licensing Sub-Committee 5 – 23rd January 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 Gigmill, South Road, Stourbridge.

Background

2. On the 17th June 2005, an application was received from John Gaunt & Partners on behalf of Wolverhampton and Dudley Breweries in respect of the Gigmill, South Road, Stourbridge, to convert an existing licence into a premises licence and to vary the premises licence simultaneously.
3. The application had the following requisite certified copies of documents enclosed:-
 - (1) Relevant Justices On Licence
 - (2) Correct Fee (£395.00)
 - (3) Plan of the premises
 - (4) Consent of the proposed Designated Premises Supervisor
 - (5) Consent of the current licensee
 - (6) Amusement with Prizes Permit.
 - (7) Children's Certificate.
4. The application to vary the premises licence was as follows:

To permit regulated entertainment comprising live and amplified music, recorded music by juke box and music systems, comperes for functions and quizzes, indoor pub games comprising a sporting event in the presence of an audience, exhibition of a film principally video entertainment and amusements machines

To allow sale of alcohol and regulated entertainment:

Mon – Thurs Inc	10.00 – 00.00
Fri & Sat	10.00 – 01.00
Sun	11.00 – 00.00

To permit provision of late night refreshment

Sun – Thurs	23.00 – 00.00
Fri & Sat	23.00 – 01.00

5. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
6. Representations were made by local residents. Copies of such objections were brought to the attention of the Committee.
7. This matter was considered by the Committee on the 8th August 2005. The Committee resolved that the application be granted as follows:-

Sale of alcohol and regulated entertainment

Mon – Thurs Inc	10.00 – 00.00
Fri & Sat	10.00 – 01.00
Sun	11.00 – 00.00

- o CCTV shall be installed.
 - o Notices prohibiting ball games shall be displayed in prominent positions outside the premises
 - o The external drinking areas shall be closed and customers and glasses removed by 11.30 on each day and external music speakers turned off at 11.00 pm on each day
 - o All doors and windows shall be kept closed during the performance of regulated entertainment except for access and egress
8. On the 6th December 2006, an application was received from John Gaunt and Partners, solicitors on behalf of the Wolverhampton & Dudley Breweries in respect of the Gigmill, South Road, Stourbridge. A copy of that application is attached to this report as Appendix 1.
 9. That application had the following requisite documents enclosed.
 - (1) Original Premises Licence
 - (2) Plan of Premises
 - (3) Fee of £315.00
 10. The application to vary the Premises Licence is as follows:-

Externally

- o To construct all weather garden area to the side/front of the property.
- o Such area to have a paving stone base and seating.
- o To extend licensable activities of retail sale of alcohol and late night refreshment to external area.
- o For such activities to operate to the existing hours of the premises.
- o To also include within the licensed area the pre-existing patio to the front of the property, currently used for the provision of food and alcohol, for the licensable activities of retail sale of alcohol, late night refreshment and recorded music as marked on the plan for indicative purposes.

No amendments are proposed to the general method of operation of the premises, or the hours of opening.

Licensable activities for the external areas are to be restricted to retail sale of alcohol, late night refreshment and recorded music.

Conditions

To vary Condition No. 4 of the “Conditions attached after a hearing” previously by the Licensing Authority so that it read as follows:-

“The external drinking areas shall (with the exception of the All Weather Garden area marked on the plan) be closed and customers and glasses removed by 11.30 each day, the All Weather Garden shall be authorised for the sale of alcohol and late night refreshment to the hours currently permitted by the Premises Licence. External music speakers shall be turned off at 11.00pm on each day.

11. Confirmation that copies of the application form and supporting documents have been served on the relevant authorities has been received.
12. Representations have been received from the Directorate of the Urban Environment and are attached to this report as Appendix 2.
13. Representations have been received from a local resident concerning noise nuisance. A copy of this letter has been sent to the Committee Members and the Applicant in accordance with the Licensing Act 2003.
14. Previous complaints have been received by the Licensing Office, which have been dealt with by the licensing enforcement team.
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, Section 11, Part 3 and Schedule 8, Part 1.
18. 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.

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:-

(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.

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. 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).

22. 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:-

(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

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

Recommendation

26. 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