

**Licensing Sub-Committee - 4**

**5<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 Rose & Crown, Hagley Road, Halesowen.

**Background**

- 2 On the 17th June 2005, an application was received by the Spirit Group in respect of the Rose & Crown, Halesowen 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

- 4 The application to vary the premises licence was as follows:

To extend the hours for regulated entertainment (live and recorded music):

Monday – Wednesday 10.00 – 00.00  
Thursday – Sunday 10.00 – 01.00

(Extra hour requested on Bank Holiday Weekends, which includes Friday, Saturday, Sunday and Monday of those weekends)

(Extra hour requested on the Thursday before Good Friday and for Christmas Eve)

To extend the hours for the sale of alcohol:

Monday – Wednesday 10.00 – 00.00

Thursday – Sunday 10.00 – 01.00

(Extra hour requested on Bank Holiday Weekends, which includes Friday, Saturday, Sunday and Monday of those weekends)

(Extra hour requested on the Thursday before Good Friday and for Christmas Eve)

To provide late night refreshment:

Monday – Wednesday 23.00 – 01.00

Thursday – Sunday 23.00 - 02.00

- 5 Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
- 6 On 8<sup>th</sup> July 2005, the Directorate of Urban Environment made representations, which were brought to the attention of the Committee.
- 7 Representations were received from residents and brought to the attention of the Committee.
- 8 This matter was considered by the Committee on the 12<sup>th</sup> August 2005. The Committee resolved that the licence be issued for the following days, times and additional conditions:

#### Playing of Recorded Music

Monday to Sunday 10.00 – 00.00

#### Dancing

Monday to Sunday 10.00 – 00.00

#### Late Night Refreshment

Monday to Wednesday 23.00 – 01.00

Thursday to Sunday 23.00 – 02.00

on St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour.

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour

#### Sale of Alcohol

Monday to Wednesday 10.00 – 00.00

Thursday to Sunday 10.00 – 01.00

on St David's Day, St Patrick's Day, St George's Day and St Andrew's Day, the finish time will be extended by one hour.

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour

#### Performance of Live Music

Monday to Sunday      10.00 – 23.30

- 9      There shall be no live or recorded music after 23.30 hrs.
- 10     All windows and doors shall be kept closed during regulated entertainment and after 23.00 hrs in any event save for access and egress.
- 11     The electrical installation shall be inspected by a competent electrician (eg an approved NICEIC contractor) at intervals recommended by them and all repairs and improvements recommended shall be implemented.
- 12     All power sockets likely to be used for the purpose of providing electrical power to entertainment equipment shall be protected by a residual current device (RCD) having rated residual operating current not exceeding 30 Milliamps to operate within 40 Milli-seconds in accordance with the relevant British Standard and The Institution of Electrical Engineers.
- 13     Delete 'If appropriate' from condition requiring display of notices in B2 QD.
- 14     The external; drinking area shall close at 23.00 hrs each night and all customers and glasses cleared at that time.
- 15     The extension for occasional events shall be limited to national events and charitable events and shall only apply if 14 days prior written notice is given to the police and no written objection is made by the police within a further 7 days.
- 16     Not to have regulated entertainment comprising disco's or karaoke without first installing double glazing in windows to the entertainment area.
- 17     On the 13<sup>th</sup> April 2007 TLT Solicitors made application for variation of the existing licence on behalf of the Spirit Group Ltd (Holders of the premises licence). The current designated premises supervisor for the premises is a Miss L E Kemp. A copy of that application is attached to this report as Appendix 1.
- 18     That application had the following requisite certified copies of documents enclosed:-
  - (1)      Current fee (£315.00)
  - (2)      Copy of the premises licence
- 19     The application for variation of licence is as follows:-

To amend the following condition namely:-

'The external drinking area shall close at 23.00 hrs each night and all customers and glasses cleared at that time'

to

'The external drinking area shall close at 23.00 hrs each night for the consumption of alcohol and food. Glasses to be cleared at this time.'

- 20 Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
- 21 On the 9<sup>th</sup> May, 2007 the Directorate of the Urban Environment made representations which are attached to this report as Appendix 2.
- 22 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**

- 23 There are no financial implications.

### **Law**

- 24 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.
- 25 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.
- 26 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.

27 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.

28 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).

29 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.

30 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**

31 This report complies with the Council's policy on equal opportunities.

32 The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.

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

## **Recommendation**

34 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