



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

TUESDAY 5TH MAY 2009 AT 10.30 A.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors Mrs. R. L. Dent, Mrs. C. J. Spencer and L. J. Turner

AGENDA

LICENSING SUB-COMMITTEE HEARING PROCEDURE (Pages 1 - 4)

1. Appointment of Chairman for the Meeting
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest
4. To consider an application for a Premises Licence in respect of the Tasty Chicken, 160 New Road, Rubery (Pages 5 - 16)
5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

23rd April 2009

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LICENSING SUB-COMMITTEE

HEARING PROCEDURE

1. The Chairman will open the hearing and introduce members of the Sub-Committee and officers present.
2. The Chairman will ask all other people present to introduce themselves.
3. The Chairman will remind the Applicant and each party present that they can be represented by a legal representative at their own expense.
4. The Licensing Officer will present the report.
5. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Licensing Officer.
6. The Chairman will invite the Applicant and/or his/her representative to present his/her case and call any witnesses. The Applicant will be allowed a maximum of 10 minutes to present the case.
7. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Applicant.
8. The Chairman will invite the Responsible Authorities to present their representations. New representations must not be raised. The Responsible Authorities will be allowed a total of 10 minutes to present their case(s). If two or more Responsible Authorities wish to address the Sub-Committee the 10 minutes will be divided between them.
9. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Responsible Authorities.
10. Interested Parties will be invited to present their representations or elect a spokesperson (which may be a Councillor) to speak on their behalf. New representations must not be raised. A maximum of 10 minutes will be allowed for the Interested Parties to present their case(s). If two or more Interested Parties wish to address the Sub-Committee the 10 minutes will be divided between them.

11. **The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Interested Parties.**
12. **The Interested Parties will be invited to sum up. A maximum of 5 minutes will be allowed.**
13. **The Responsible Authorities will be invited to sum up. A maximum of 5 minutes will be allowed.**
14. **The Applicant will be invited to sum up. A maximum of 5 minutes will be allowed.**
15. **At the conclusion of the hearing all parties, including the Licensing Officer, will be asked to withdraw. The Members of the Sub-Committee, the Legal Adviser and the Committee Services Officer will remain.**
16. **Once the Sub-Committee has reached its decision, all parties will be invited to return. The Sub-Committee's decision, together with the reasons for the decision, will be announced by the Chairman.**
17. **The Sub-Committee's decision will be confirmed in writing to the Applicant and those parties who made representations.**

Please Note:

1. ***Each application coming before the Licensing Sub-Committee will be treated on its own merits, and the Sub-Committee will take its decision based upon:***
 - a) ***the promotion of the four licensing objectives, as given by the Licensing Act 2003, namely:***
 - ***the prevention of crime and disorder;***
 - ***public safety;***
 - ***the prevention of public nuisance; and***
 - ***the protection of children from harm;***
 -
 - b) ***Bromsgrove District Council's Statement of Licensing Policy;***
 - c) ***guidance issued under section 182 of the Licensing Act 2003; and***
 - d) ***the Licensing Act 2003.***
2. ***The Chairman may require any person who in his/her opinion is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit him/her to return only on such conditions as the Chairman may specify. However, such person may, before the end of the hearing, submit in writing any information which he/she would have been entitled to have given orally at the meeting had he/she not been required to leave.***
3. ***Decisions may be taken in the absence of the Applicant or any other party. All notices and representations received from absent parties will be considered.***
4. ***Questioning must not be hostile or intended to unfairly undermine the position of any party.***
5. ***Late evidence will only be considered with the agreement of all parties present.***
6. ***In cases where a decision cannot be given at the end of the hearing, the decision will be made within 5 working days.***
7. ***An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which all parties were notified in writing of the decision of the Licensing Sub-Committee.***
8. ***All meetings are recorded.***

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BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

5TH MAY 2009

APPLICATION FOR A PREMISES LICENCE – TASTY CHICKEN, NEW ROAD, RUBERY

Responsible Portfolio Holder	Cllr. P. Whittaker
Responsible Head of Service	Head of Planning and Environment Services

1. SUMMARY

- 1.1 To consider an application to grant a premises licence in respect of the Tasty Chicken, 160 New Road, Rubery. The Tasty Chicken is an outlet that provides hot food for consumption on and off the premises.

2. RECOMMENDATION

- 2.1 That Members determine the application. The application may be refused, or it may be granted in whole or in part (with additional conditions, if appropriate), and all of it or part of it may be applied to the whole or part of the premises provided that the Sub-Committee's decision is consistent with the licensing objectives and the Council's Statement of Licensing Policy.

3. BACKGROUND

- 3.1 The Licensing Authority has received an application for a new Premises Licence, in accordance with the Licensing Act 2003.
- 3.2 The new application to seeking the following permissions:

Provision of Late Night Refreshment on and off the premises

- 11.00 p.m. – 12 midnight every Monday through to Wednesday;
- 11.00 p.m. – 1.00 a.m. every Thursday;
- 11.00 p.m. – 2.00 a.m. Friday and Saturday

Actual opening hours of the premises

- 12 midday – 12 midnight every Monday through to Wednesday;
- 12 midday – 1.00 a.m. every Thursday;
- 12 midday – 2.00 a.m. every Friday and Saturday;
- 1.00 p.m. – 11.p.m. every Sunday.

- 3.3 The applicant is already permitted to provide late night refreshment till 11.00 p.m. without the requirement to hold a premises licence.
- 3.4 As part of the application process, applicants are required to carry out a risk assessment of the effect the proposed licence would have on the four licensing objectives and what steps they intend to take in order to promote these objectives should the application be granted.
- 3.5 For ease of reference the four licensing objectives are:
- Prevention of crime and disorder;
 - Protection of public safety;
 - Prevention of public nuisance;
 - Protection of children from harm.
- 3.6 Details of the measures the applicant is prepared to take are set out at Appendix 'A'. Should the licence be granted, these measures will form part of the licence, which the applicant will have to adhere to.
- 3.7 In accordance with the Licensing Act, a responsible authority is entitled to make representations. Responsible authorities include the Police Authority, Planning Authority, the Council's own Environmental Health Department, Fire Authority, Trading Standards and the Area Child Protection Committee.
- 3.8 On this occasion, no representations have been received from any of the responsible authorities.
- 3.9 In accordance with the Licensing Act, anyone residing in the vicinity of a premises for which an application has been made is entitled to make representations. Vicinity is not defined in the Licensing Act.
- 3.10 A representation has been made by a resident living near to the premises. A copy of the representation is attached at Appendix 'B'. The basis of their representation relates to an increase in anti social behaviour and noise nuisance in a residential area.
- 3.11 A plan showing the location of the premises is attached at Appendix 'C'.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from this Report. However if either party made a successful appeal to the Magistrates' Court against the decision of the Council, the Council may be liable for any legal costs.

5. LEGAL IMPLICATIONS

- 5.1 Each party is entitled to appeal to the Magistrates' Court if they are dissatisfied with the decision of the Council, within 21 days from the date of decision.
- 5.2 The Sub-Committee must have regard to the Statutory Guidance, issued by the Secretary of State under Section 182 of the Licensing Act 2003. Paragraph 13.23 of the guidance states that:

“Need concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. Need is a matter for planning committees and for the market.”

- 5.3 The Sub-Committee must have regard to the Council's Statement of Licensing Policy.
- 5.4 The conduct of the Sub-Committee is governed by the Licensing Act 2003 (Hearings) Regulations 2005, as amended.
- 5.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights.

6. COUNCIL OBJECTIVES

- 6.1 This item links with the Council Objective CO2.

7. RISK MANAGEMENT

- 7.1 The main risk associated with the details included in this report are:
- Decision made without having regard to Council Policy, Guidance issued by Secretary of State and governing legislation.
- 7.2 This risk is being managed as follows:
- Adhere to all licensing policies and legislation when determining applications for all licensing functions.
 - Risk Register: Planning and Environment Services
 - Key Objective Ref No. 8

8. CUSTOMER IMPLICATIONS

- 8.1 All parties will be notified of the Council's decision in writing.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 All applicants are dealt with on their own individual merits are accepted in line with legislation and Council Policy.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None.

11. OTHER IMPLICATIONS

Procurement Issues – None
Personnel Implications – None
Governance/Performance Management – None
Community Safety including Section 17 of the Crime and Disorder Act 1998 – None
Policy – The Council’s Statement of Licensing Policy applies to this application. This reads: “ <i>We will consider every application sent to us, on its individual merits. When we make licensing decisions we will promote:</i>
<ul style="list-style-type: none">▪ <i>prevention of crime and disorder;</i>▪ <i>protection of public safety;</i>▪ <i>prevention of public nuisance, and</i>▪ <i>protection of children from harm.”</i>
The Council’s policy further states that: “ <i>Licensing is not the primary mechanism for general control of nuisance and the anti-social behaviour of people once they are away from a licensed premises.”</i>
Environmental - None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities and Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

Waseley.

14. APPENDICES

Appendix A – Operating Schedule

Appendix B – Letter of representation

Appendix C – Location plan of the premises

15. BACKGROUND PAPERS

Application form received on 4th March 2009

Email received from Environmental Services (Health & Safety) dated 10th March 2009

Letter received from Worcestershire County Council – Safeguarding and Quality Assurance dated 16th March 2009

Letter received from Hereford & Worcester Fire and Rescue Authority dated 10th March 2009

Contact officer

Name: Sharon Smith, Principal Licensing Officer

E Mail: sharon.smith@bromsgrove.gov.uk

Tel: (01527) 881626

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P

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

7.

b) The prevention of crime and disorder

WE CURRENTLY HAVE CCTV CAMERAS IN AND AROUND THE PREMISES.

c) Public safety

AS ABOVE, IN ADDITION HAVE RECENTLY INSTALLED FURTHER LIGHTING TO MAKE THE OUTSIDE SURROUNDING AREAS MORE VISIBLE.

7.

d) The prevention of public nuisance

WE INTEND TO GUIDE AND INFORM CUSTOMERS NOT TO STAND AROUND THE PREMISES. ALSO BAN CUSTOMERS WHO ARE A POTENTIAL PUBLIC NUISANCE AND WORK IN PARTNERSHIP WITH THE LOCAL POLICE SERVICES.

e) The protection of children from harm

BY REPORTING ANY POTENTIAL RISKS TO CHILDREN TO THE LOCAL AUTHORITIES/POLICE SERVICES/CHILDREN SERVICES OR ANY OTHER RELEVANT PREVENTION AGENCIES.

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St. Chads Road
Rubery
Birmingham
B45 9DJ

Friday 3rd April

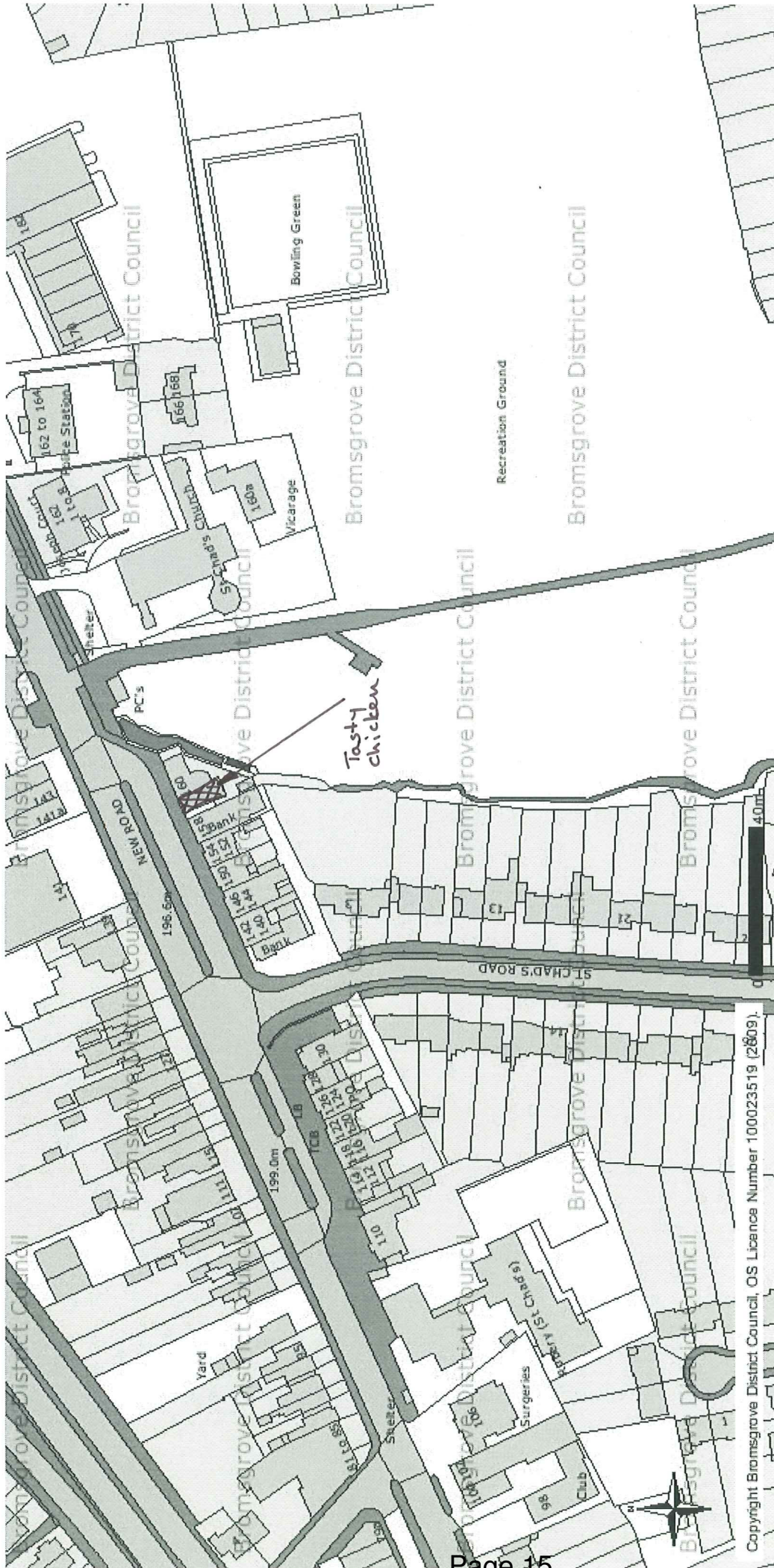
Dear Sharon

I am objecting to the extension in opening hours of "Tasty Chicken" of 160 New Road, Rubery B45 on the following grounds...

1. Rubery does not need a takeaway open at 2am. There are no clubs or pubs around it that are open, i.e. Tasty Chicken is in a village...not 'Broad Street, Birmingham.
2. It will lead to an increase in 'job culture.' (The Shop itself has already broken its rule of trade, by opening as late as 02.45am on a Saturday Night/Sunday morning, leading to noise and anti social behaviour at this hour. This was reported to BDC, and as a result Tasty Chicken has now applied for its extension.) This will affect the ability to police, and will put an even bigger strain on the resource of this service.
3. There will be an increase in litter, leading to other environmental issues, such as an increase in rats.
4. Tasty Chicken is essentially **only yards from residential areas, St. Chads Road**, and noise pollution coming from it, after 11pm is wholly unacceptable...and as mentioned in (2) when it is open as late as 02.45am it is a fact that there is noise and anti social behaviour coming from around it.

Regards

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Bromsgrove
District Council

www.bromsgrove.gov.uk



Department:

Title:

Scale:

Tasty Chicken, 160 New Road,
Rubery

1:1500

APPENDIX 'c'

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