

BROMSGROVE DISTRICT COUNCIL

**LICENSING
SUB-COMMITTEE**

26th November 2012

**APPLICATION FOR A PREMISE LICENCE UNDER THE LICENSING ACT
2003**

Relevant Portfolio Holder	Councillor Kit Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Steve Jorden – Head of Worcestershire Regulatory Services.
Wards Affected	St John's Ward
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 To consider an application for a Premise licence made by Malthurst Limited to sell alcohol and provide Late Night Refreshment off the premise at 88 Birmingham Road, Bromsgrove, B61 0DF. This application is brought before the Licensing Sub-Committee following receipt of relevant objections.

2. RECOMMENDATIONS

2.1 The Sub-Committee is asked to RESOLVE

whether or not, having regard to the licensing objectives, the Guidance issued under section 182 of the Licensing Act 2003, the District Council's Statement of Licensing Policy, the applicant's proposed Operating Schedule and relevant representations made by responsible authorities;

- 1) To grant or refuse the application, as shown in the application form attached at Appendix 1 to the report.**
- 2) If the Licensing Sub-Committee is minded to approve the application;**
 - a) to attach relevant Mandatory Conditions; and**
 - b) to consider, with due regard to the statutory licensing objectives and the relevant representation received, whether to attach any appropriate conditions.**

3. KEY ISSUES

Financial Implications

- 3.1 The Statutory Fee of £100.00 has been paid, and the application has been duly advertised in accordance to the requirements of the Licensing Act 2003. Should the application be refused by the Sub-committee, there is a right of appeal to Magistrates Court. Should an appeal be successful the Magistrates may make an order for costs.

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Legal Implications

- 3.2 The Sub-Committee should have regard to any National Guidance set down under S182 of the Licensing Act 2003 and Bromsgrove District Council's Statement of Licensing Policy.
- 3.3 The Committee is obliged to determine this application with a view to the promotion of the licensing objectives which are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm.
- 3.4 The Sub-Committee must also have regard to the representations made and the evidence it hears.
- 3.5 The Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:
- (a) Grant the application as asked
 - (b) Modify or impose conditions on the licence, by altering or omitting or adding to them.
 - (c) Reject the application.
- 3.6 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.
- 3.7 The Human Rights Act 1998 incorporates human rights under the European Convention into English law. Article 6 provides that, in the determination of a person's civil rights, everyone is entitled to a fair and public hearing. In this respect, third parties whose property rights may be adversely affected and, of course, applicants themselves, should be allowed to address the Committee if they

Service/Operational Implications

- 3.8 An application for a new Premises Licence for Malthurst Bromsgrove, 88 Birmingham Road, Bromsgrove, B61 0DF made by Malthurst Limited was received by Bromsgrove District Council on the 2nd October 2012, for the:

Sale of alcohol off the Premises: Monday to Sunday 00:00 – 24:00
Late Night Refreshment of the premise: Monday to Sunday 23:00 – 05:00

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- 3.9 The Licensing Authority has received 41 letters of representations from parties other than Responsible Authorities objecting to the application made Malthurst Limited. Copies of the letters are attached as **Appendix 2**.
- 3.10 The representations received relate to two of the four licensing objectives.
- * The Prevention of Crime and Disorder
 - * The Prevention of Public Nuisance
- 3.11 A representation was received from the Licensing Authority however the applicant subsequently offered a condition that addresses the concern raised and therefore the objection has been withdrawn
- 3.12 On the 8th November 2012, the applicant's solicitors requested for an amendment to the application in order to try and mediate the representations received from other parties. The amendment is to request the Sale of Alcohol hours to be reduced from 00:00 – 24:00 to 06:00 – 00:00. This is attached as **Appendix 3**.
- 3.13 Attached as **Appendix 4** are responses from Responsible Authorities under the Licensing Act 2003 informing us that they do not have any objections to the grant of the application. This also includes the confirmation from the Licensing Authority that the condition relating to the primary use of the premise and the monitoring thereof addresses the concern and that the initial objection is withdrawn.

Customer / Equalities and Diversity Implications

- 3.14 None

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

- Appendix 1 Application Form, Plan
- Appendix 2 Objection letters from residents
- Appendix 3 Amendment to application on Email
- Appendix 4 Responses from Responsible Authorities

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6. BACKGROUND PAPERS

Licensing Act 2003

Guidance under S182 of the Licensing Act 2003

Statement of Licensing Policy

AUTHOR OF REPORT

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