

BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

9TH APRIL 2008

**APPLICATION TO VARY A PREMISES LICENCE – THE HILL TAVERN,
ADAMS HILL, CLENT**

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 vary a premises licence in respect of The Hill Tavern, Adams Hill, Clent.

2. RECOMMENDATION

- 2.1 That Members determine the variation application. The variation 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 to vary the existing permissions, in accordance with the Licensing Act 2003.

- 3.2 The current hours of operation, as authorised by the existing licence are as follows:

- The retail sale of alcohol: 11.00 a.m. – 11.00 p.m. Monday to Saturday
11.00 a.m. – 10.30 p.m. on Sunday
12noon – 10.30 p.m. on Good Friday
12noon – to 3.00 p.m. and 7.00 p.m. - 10.30 p.m. on Christmas Day
New Year's Eve*

- The provision of regulated entertainment: 11.00 a.m. – 11.20 p.m. Monday to Saturday
11.00 a.m. – 10.50 p.m. on Sunday
Good Friday – not permitted
Christmas Day – not permitted
New Year's Eve*

*On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

3.3 The application to vary the licence has five elements:

- To extend the hours of operation for the retail sale of alcohol;
- To extend the hours of operation for regulated entertainment;
- To extend the hours to provide late night refreshment;
- To permit regulated entertainment to take place outside on no more than 52 occasions per calendar year;
- To remove all conditions retained by the transition process as set out in previous licences, namely the public entertainment licence and the 'justices on licence'. The conditions are set out at Appendix 'A'.

3.4 The effect of the proposed variation would be as follows:

Retail sale of alcohol

- 09.00 a.m. - 1.00 a.m. into the morning following every Monday through to Sunday;
- 09.00 a.m. - 2.00 a.m. into the morning following every Christmas Eve and Boxing Day; all Fridays, Saturdays, Sundays and Mondays of May Bank Holiday, Spring Bank Holiday and August Bank Holiday; all Thursdays, Fridays, Saturdays, Sundays and Mondays for the Easter Bank Holiday Weekend;
- New Years Eve from 09.00 a.m. until the start of permitted hours on New Years Day.

Provision of regulated entertainment (inside the premises)

- 09.00 a.m. - 12.30 a.m. into the morning following every Monday through to Sunday;
- 09.00 a.m. - 1.30 a.m. into the morning following every Christmas Eve and Boxing Day; all Fridays, Saturdays, Sundays and Mondays of May Bank Holiday, Spring Bank Holiday and August Bank Holiday; all Thursdays, Fridays, Saturdays, Sundays and Mondays for the Easter Bank Holiday Weekend;
- New Years Eve from 09.00 a.m. until the start of permitted hours on New Years Day.

Provision of regulated entertainment (outside the premises) on no more than 52 occasions per calendar year.

- 09.00 a.m. - 11.00 p.m. into the morning following every Monday through to Sunday;
- 09.00 a.m. - 12.00 midnight into the morning following every Christmas Eve and Boxing Day; all Fridays, Saturdays, Sundays and Mondays of May Bank Holiday, Spring Bank Holiday and August Bank Holiday; all Thursdays, Fridays, Saturdays, Sundays and Mondays for the Easter Bank Holiday Weekend;

- New Years Eve from 11.00 a.m. until the start of permitted hours on New Years Day.

Provision of late night refreshment

- 11.00 p.m. - 1.30 a.m. into the morning following every Monday through to Sunday;
- 11.00 p.m. - 1.30 a.m. into the morning following every Christmas Eve and Boxing Day; all Fridays, Saturdays, Sundays and Mondays of May Bank Holiday, Spring Bank Holiday and August Bank Holiday; all Thursdays, Fridays, Saturdays, Sundays and Mondays for the Easter Bank Holiday Weekend;
- New Years Eve from 11.00 p.m. until the start of permitted hours on New Years Day.

Actual opening hours of the premises

- 07.00 a.m. - 1.30 a.m. into the morning following every Monday through to Sunday;
- 07.00 a.m. - 2.30 a.m. into the morning following every Christmas Eve and Boxing Day; all Fridays, Saturdays, Sundays and Mondays of May Bank Holiday, Spring Bank Holiday and August Bank Holiday; all Thursdays, Fridays, Saturdays, Sundays and Mondays for the Easter Bank Holiday Weekend;
- New Years Eve from 07.00 a.m. until the start of permitted hours on New Years Day.

3.5 Members may wish to note that the consumption of alcohol and food can take place both within the premises and outside in the beer garden. The applicants are also seeking for regulated entertainment, such as live and recorded music and dancing to take place outside of the premises on no more than 52 occasions per year.

3.6 As part of the application process, the applicants are required to carry out a risk assessment of the effect the proposed variation would have on the four licensing objectives and what steps they intend to take in order to promote these objectives should the variation be granted. On this occasion the applicant felt that it was not necessary to include any measures to meet the four objectives. For ease of reference, the four licensing objectives are as follows:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

3.7 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.

- 3.8 Representations have been made by 35 residents living near to the premises. A copy of each representation is attached at Appendix 'B'. The basis of their representations relate to noise associated with people leaving the premises. They feel that the extension in hours would only exacerbate the problems highlighted and it is considered that the proposed variation would undermine the licensing objective, prevention of public nuisance.
- 3.9 Representations have also been received from The National Trust and a local business. A copy of their representation is attached at Appendix 'C'
- 3.10 A representation has also been received from Environmental Health. A copy of their report is attached at Appendix 'D'.
- 3.11 A plan showing the proximity of residential properties is attached at Appendix 'E'.
- 3.12 No representations have been received from the other responsible authorities.

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.
- 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 Currently the risk identified in the bullet point is not addressed by any risk register and will be added to the Planning and Environment Services risk register as follows:

- Ensure that all licensing applications are determined in accordance with the relevant Council Policy, any guidance issued by Central Government and any governing legislation.

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>
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. APPENDICES

- Appendix A - List of conditions attached to existing licence
- Appendix B - Letters of objection from local residents
- Appendix C - Letters of objection from local businesses/organisations
- Appendix D - Memorandum from Environmental Services
- Appendix E - Plan of the area

14. BACKGROUND PAPERS

- Application form received on 15th February 2008
- Email received from the Police dated 3rd March 2008
- Memo received from Environmental Services dated 6th March 2008
- Letter received from Worcestershire County Council – Safeguarding and Quality Assurance dated 18th February 2008
- Letter received from Hereford & Worcester Fire and Rescue Authority dated 6th March 2008
- 35 letters of objection received from local residents received during March 2008
- Letter of objection received from The National Trust dated 10th March 2008
- Letter of objection received from the Four Stones Restaurant dated 7th March 2008

Contact officer

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