

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

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