

BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

APRIL 2010

APPLICATION FOR A PREMISES LICENCE – MARTINS, 65-67 BROAD STREET, SIDEMOOR, BROMSGROVE, B61 8LL

| | |
|------------------------------|---|
| Responsible Portfolio Holder | Cllr. 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 Martins 65-67 Broad Street, Bromsgrove. Martins are presently trading as a newsagent and general store.

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:

Sale of Alcohol for consumption Off the premises

- 06:00hrs – 22:00hrs Monday through to Sunday

Actual opening hours of the premises

- 06:00hrs – 22:00hrs Monday through to Sunday

- 3.3 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.

- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 No representations have been received from any of the responsible authorities.
- 3.8 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.
- 3.9 A representation has been made by a resident living near to the premises and a further representation has been made by a local business. Copies of the representations are attached at Appendix B. The basis of the representations relates to an increase in anti social behaviour, noise nuisance and litter in a residential area.
- 3.10 In accordance with (s13(3) Licensing Act 2003) which has been expanded so that elected councillors of the licensing authority can now make representations or seek a review in their own right, a representation has been made by a local councillor and is attached at Appendix B.
- 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 INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 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. CLIMATE CHANGE AND CARBON IMPLICATIONS

11.1 None.

12. OTHER IMPLICATIONS

| |
|---|
| Procurement Issues – None |
| Personnel – 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> <p>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></p> |
| Biodiversity - None |

13. OTHERS CONSULTED ON THE REPORT

| | |
|---|-----|
| Portfolio Holder | Yes |
| Chief Executive | No |
| Executive Director (Partnerships and Projects) | No |
| Executive 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 |

14. WARDS AFFECTED

Sidemoor.

15. APPENDICES

Appendix A – Operating Schedule

Appendix B – Letters of representation

Appendix C – Location plan of the premises

16. BACKGROUND PAPERS

Application form received on 10th March 2010

Email received from Environmental Services dated 24th March 2010

Contact officer

Name: John Davies, Licensing Assistant

E Mail: john.davies@bromsgrove.gov.uk

Tel: (01527) 881473