

BROMSGROVE DISTRICT COUNCIL

EXECUTIVE COMMITTEE

Date 25th June 2010

Premises Licence Hearing - Variation Application The Rousler

Relevant Portfolio Holder	Cllr P Whittaker
Relevant Head of Service	Steve Jordan - Head of Worcestershire Regulatory Services.
Key Decision / Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 To consider an application in the name of Barracuda Pubs and Bars Ltd to vary the premises licence to include the variation in accordance with the submitted plan and to extend the hours permitted for all licensable activities.

The application is brought before the Sub-Committee in view of a relevant representation received from a local resident.

2. RECOMMENDATIONS

- 2.1 **The Sub-Committee is asked to RESOLVE**

After hearing the representation, in relation to The Rousler whether to;

- (a) to modify the conditions of the licence;**
- (b) to reject the whole or part of the application;**

Or make any changes deemed necessary to the terms of the Premises Licence in relation to the promotion of the licensing objectives.

3 BACKGROUND

- 3.1 The Premises has been licensed with the council as a On licence and under the Licensing Act 2003 transferred from the justice Licence on 24/11/2005
- 3.2 The Licence permits the Sale of Alcohol with consumption off the premises with standard mandatory conditions; a copy of the premises licence is Included at Appendix 1.
- 3.3 The current opening hours of the premises are:

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Thursday to Saturday 10:00am to 02:30am
Sunday to Wednesday 10:00am to 00:00 Midnight

3.4 The Four licensing objectives are:

The Prevention of Crime and Disorder
Public Safety
The Prevention of Public Nuisance
The protection of Children from harm

4. KEY ISSUES

4.1 On 8th April 2010 Bromsgrove District Council received a variation application from John Gaunt & Partners on behalf of Barracuda Pubs and Clubs Ltd to include on the Licence changes to the plan to cover a proposed roof terrace and to advance the opening hours for non licensable activities to start at 9:00am Monday - Sunday.

4.2 On the 30th April 2010 John Gaunt & Partners submitted a new application to include the changes to include a roof terrace and to change the hours of licensable activity to start at 08:00am Monday - Sunday; a copy of the application can be found at appendix 2.

4.3 John Gaunt & Partners were happy and agreed that the application be re-advertised and the 28 day consultation period is to finish on the 28th May 2010.

4.4 A map of the premises can be found at appendix 3.

4.4 On 7th May 2010 Bromsgrove District Council received a representation from a local resident expressing their concerns regarding the new roof terrace and the change of licensing hours; a copy of the representation can be found at appendix 4.

4.5 There have been no other representations received from any of the other responsible authorities.

5. FINANCIAL IMPLICATIONS

5.1 There are no Financial Implications with this report.

6. LEGAL IMPLICATIONS

6.1 Section 34 (3), (4), (5), (6) and (7) of the Licensing Act 2003 provides:

- (3) Where relevant representations are made, the authority must—
 - (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

- (4) The steps are—
 - (a) to modify the conditions of the licence;
 - (b) to reject the whole or part of the application;and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- (5) In this section “relevant representations” means representations which—
 - (a) are about the likely effect of the grant of the application on the promotion of the licensing objectives, and
 - (b) meet the requirements of subsection (6).

- (6) The requirements are—
 - (a) that the representations are made by an interested party or responsible authority within the period prescribed under section 17(5)(c) by virtue of section 34(5),
 - (b) that they have not been withdrawn, and
 - (c) in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

- (7) Subsections (2) and (3) are subject to sections 19, 20 and 21 (which require certain mandatory conditions to be included in premises licence).

Guidance under Section 182 of the Licensing Act 2003

In considering the application, the licensing authority must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. For instance, they may need to consult the environmental health officer on an application with possible public nuisance implications. But there is no requirement to consult all responsible authorities on each application and in many cases the licensing authority may be able to make a decision without consultation.

The licensing authority must also consider any relevant representations received from interested parties within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision

7. POLICY IMPLICATIONS

- 7.1 The Committee must have regard to its own Statement of Licensing Policy, guidance issued under S182 of the Licensing Act and the Licensing Act 2003 when reaching a decision.
- 7.2 The Council's Statement of Licensing Policy applies to this application. This reads: "*We will consider every application sent to us, on its individual merits. When we make licensing decisions we will promote:*
- *prevention of crime and disorder;*
 - *protection of public safety;*
 - *prevention of public nuisance, and*
 - *protection of children from harm."*

8. COUNCIL OBJECTIVES

- 8.1 This proposal contributes to the Council's objective "One Community"

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9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

9.1 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.

9.2 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.

10. CUSTOMER IMPLICATIONS

10.1 The outcome of the Committee's decision may have an impact on the livelihood and income of the Premises Licence holders.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

11.1 None

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

12.1 None

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

13.1 None

14. HUMAN RESOURCES IMPLICATIONS

14.1 None

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

15.1 None

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16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

16.1 None

17. HEALTH INEQUALITIES IMPLICATIONS

17.1 None

18. LESSONS LEARNT

18.1 None

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

19.1 All parties will be notified of the Council's decision in writing

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
Chief Executive	Yes
Executive Director (S151 Officer)	No
Executive Director - Leisure, Cultural, Environmental and Community Services	No
Executive Director - Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

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21. WARDS AFFECTED

Central Ward

22. APPENDICES

- Appendix 1 Premises Licence
- Appendix 2 Application to Vary Premises Licence under the Licensing Act 2003
- Appendix 3 Map of Premises
- Appendix 4 Representation from Local Resident

23. BACKGROUND PAPERS

Statement of Licensing Policy
Licensing Act 2003
Licensing Act 2003 Section 182 Guidance Notes

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