

APPLICATION FOR A VARIATION OF PREMISES LICENCE AT: CROWN & CUSHIONM, 1 MIDLAND ROAD, DERBY. DE1 2SN

RECOMMENDATION

To consider the application and relevant representations.

To decide whether to:

- modify conditions consistent with the application for variation;
- exclude licensable activities from the licence;
- reject whole of the application; or
- reject part of the application.

SUPPORTING INFORMATION

MATTERS FOR CONSIDERATION

- 2.1 An application for a variation of premises licence was received on 26 January 2006 from Mrs. Janet Beale. A copy of the application is attached at **Appendix 2**.
- 2.2 **The variation applied for is:** additional hours for the sales of alcohol and for the provision of recorded music.
- 2.3 The relevant licensable activities currently are:
Exhibition of Films, Indoor-sporting events, live & recorded music, Performance of dance, provision of facilities for making music & dancing, late night refreshment and retail sales of alcohol for consumption on and off the premises.
- 2.4 **The proposed licensed activities are:** as 2.3 above
- 2.5 The hours of licensable activities currently are:
Sunday-Thursday 10:00-01:00, Friday-Saturday 10:00-02:00,

- 2.6 The proposed hours of licensable activities are:**
Sales of alcohol Sunday-Thursday 06:00-01:00, Friday & Saturday 06:00-02:00
- 2.7 Other times the premises is to be open to the public:
Sunday-Thursday 10:00-01:30, Friday & Saturday 10:00-02:30
- 2.8 The designated premises supervisor is Janet Beale.
- 2.9 The supply of alcohol is for consumption on & off the premises.
- 2.10 The steps the applicant intends to take to promote licensing objectives are outlined in the operating schedule attached at **Appendix 2**.
- 2.11 A copy of the current premises licence is attached at **Appendix 3**
- 2.12 A plan of the premises is to be presented at Committee.
- 2.13 A relevant representation has been received from the Police Authority, a responsible Authority. A copy of which is attached at **Appendix 4**
- 2.14 A location map is attached at **Appendix 5**
- 2.15 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.

In all applications relating to premises licences the City Council expects applicants to specify methods by which they will promote the four licensing objectives in their operating schedules.

- 2.16 In making its decision, the Committee is also obliged to have regard to national Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Licensing Policy.
- 2.17 In considering an application the Council must consider the application itself and any relevant representations.
- 2.18 The Council has a duty to act in a manner that is compatible with the Human Rights Act 1998.
- 2.19 A Licence is regarded as property for the purposes of the Human Rights Act 1998. Article 1 of the First Protocol states that:
- "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in

the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

2.20 Three stage test to be applied:

2.20.1 Is the interference in accordance with the law?

2.20.2 Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?

2.20.3 Is the decision proportionate ie. Striking a fair balance between the demands of the general interests of the community and the requirement to protect the individual's fundamental rights?

Premises History

- 3.1 The premises converted an existing justices' licence and public entertainment licence to a new premises licence under the Licensing Act 2003 on 24 November 2005.

For more information

contact:

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Background papers:

None

List of appendices:

Appendix 1 – Implications

Appendix 2 – Application

Appendix 3 – Copy of current premises licence

Appendix 4 – Police Representation

Appendix 5 – Location Map

IMPLICATIONS

FINANCIAL

1.1 If the application is refused, the applicant will forfeit the fee. Should they wish to re-apply for a Licence at a later date a fresh fee will have to be paid.

LEGAL

2.1 Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application may appeal to the Magistrates Court within 21 days of notification of the decision. On appeal, the Magistrates Court may:

2.1.1 dismiss the appeal; or

2.1.2 substitute the decision for another decision which could have been made by the Council; or

2.1.3 remit the case to the Council to dispose of it in accordance with the direction of the Court; and

2.1.4 make an order for costs as it sees fit.

PERSONNEL

3.1 None directly arising.

EQUALITIES IMPACT

4.1 None directly arising.

CORPORATE THEMES AND PRIORITIES FOR CHANGE

5.1. The Council's Statement of Licensing Policy used by Licensing Panel in determining applications contribute to the Council's objectives of **protecting and supporting people** and **a healthy environment**.