

APPLICATION FOR A VARIATION OF PREMISES LICENCE AT BABINGTON ARMS, 11-13 BABINGTON LANE, DERBY

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 16 March 2005 from JD Wetherspoon. A copy of the application is attached at **Appendix 2**.
- 2.2 **The variation applied for is:** additional provisions for entertainment, longer hours of opening & off licence sales
- 2.3 The relevant licensable activities currently are:
- Live music, recorded music, performances of dance, anything of a similar nature. Sale by retail of alcohol for consumption on the premises.
- 2.4 **The proposed licensed activities are:** Provision of entertainment facilities for, making music, dancing, entertainment of a similar description, provision of late night refreshment. Sale by retail of alcohol for consumption on and off the premises

- 2.5 The hours of licensable activities currently are:
10.00- 23.00 Mon – Sat 12.00 – 22.30 Sun & Good Fri, 12.00-15.00 &
19.00-22.30 Xmas Day
- 2.6 **The proposed hours of licensable activities are:**
09:00-00:30 Sun – Thurs, 09:00-01:00 Fri & Sat
(page 15 of Appendix 2 refers to other requested times)
- 2.7 Other times the premises is to be open to the public:
07:00-01:30 Sun –Thurs, 07:00-02:00 Fri & Sat
(page 15 of Appendix 2 refers to other requested times)
- 2.8 The designated premises supervisor is Thomas Taylor.
- 2.9 The supply of alcohol is for consumption on and 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 plan of the premises will be presented at Committee.
- 2.12 A consent form signed by the Designated Premises Supervisor is attached at **Appendix 3**
- 2.13 A relevant representation has been received from Derbyshire Constabulary, a responsible authority. A copy of which is attached at **Appendix 4**
- 2.14 A relevant representation has been received from the Area Child Protection Committee, a responsible authority. A copy of which is attached at **Appendix 5**
- 2.15 A location map is attached at **Appendix 6**
- 2.16 The sale by retail of alcohol; the supply of alcohol by or on behalf of a club to a member of the club; the provision of regulated entertainment; and the provision of late night refreshment must be licensed under the Licensing Act 2003.
- 2.17 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.

- 2.18 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.
- 2.19 In considering an application the Council must consider the application itself and any relevant representations.
- 2.20 The Council has a duty to act in a manner, which is compatible with the Human Rights Act 1998.
- 2.21 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.”

- 2.22 Three stage test to be applied:
- 2.22.1 Is the interference in accordance with the law?
- 2.22.2 Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?
- 2.22.3 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 Babington Arms currently holds a Justices' 'on' licence and a Childrens certificate, both of which have conditions to them. These are attached at the rear of Appendix 2.

For more information

contact:

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Background papers:

None

List of appendices:

Appendix 1 – Implications
Appendix 2 – Application
Appendix 3 – Consent Form
Appendix 4 – Relevant Representation from Police
Appendix 5 – Relevant Representation from Child Protection
Appendix 6 – 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 General Licensing Sub Committee in determining applications contribute to the Council's objectives of **protecting and supporting people** and **a healthy environment**.