



GENERAL LICENSING SUB-COMMITTEE
16 May 2014

ITEM 5

Report of the Strategic Director of
Neighbourhoods

**Application for the transfer of a premises licence at:
The Mist 25 Normanton Road Derby DE1 2GJ**

SUMMARY

- 1.1 An application for the transfer of the premises licence was received by Derby City Council's Licensing Team on 17 April 2014 from Errol Scott.
- 1.2 On 29 April 2014 a relevant representation was received from Derbyshire Constabulary, a responsible authority.
- 1.3 The General Licensing Sub Committee can decide to:
 - Reject the application if it considers it necessary for the promotion of the crime prevention objective to do so: or
 - To grant the application.

RECOMMENDATION

- 2.1 To consider the information in the report, consider the application and any relevant representation to determine the transfer of the Premises Licence at: The Mist 25 Normanton Road Derby DE1 2GJ.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that the four licensing objectives are held in relation to the application for a transfer of the Premises Licence at: The Mist 25 Normanton Road Derby DE1 2GJ.

SUPPORTING INFORMATION

- 4.1 An application for the transfer of the premises licence was received by Derby City Council's Licensing Team on 17 April 2014 from Errol Scott. A copy of the application is attached at Appendix 2.
- 4.2 On 29 April 2014 a relevant representation was received from Derbyshire Constabulary, a responsible authority. In this particular type of application only the police are permitted to submit a representation. A copy is attached at Appendix 3.

- 4.3 A copy of the current premises licence is attached at Appendix 4.
- 4.4 A location map is attached at Appendix 5.
- 4.5 The Committee is obliged to determine this application with a view to promoting the licensing objective that deals with the prevention of crime and disorder.
- 4.6 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.
- 4.7 The Council recognises the importance of securing proper integration with and attaching relevant conditions that reflect local strategies.
- 4.8 The Council has a duty to act in a manner which is compatible with the Human Rights Act 1998.
- 4.9 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."

- 4.10 The Committee must also take into account the effect on local residents. Article 8 states:
- Everyone has the right to respect for his private and family life, his home and his correspondence.
 - There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and the freedoms of others.

4.11 Three stage test to be applied:

- Is the interference in accordance with the law?
- Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?

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?

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| OTHER OPTIONS CONSIDERED |
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5.1 There are no other options available to the Committee other than those detailed in point 2.1.

This report has been approved by the following officers:

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| Legal officer | Not applicable for Sub Committee |
| Financial officer | Not applicable for Sub Committee |
| Human Resources officer | Not applicable for Sub Committee |
| Service Director(s) | Not applicable for Sub Committee |
| Other(s) | Not applicable for Sub Committee |

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| For more information contact: | Name 01332 641931 e-mail Sandra.mansell@derby.gov.uk |
| Background papers: | None |
| List of appendices: | Appendix 1 – Implications Appendix 2 – Application Appendix 3 – Relevant representation Appendix 4 – A copy of the current premises licence Appendix 5 – Location map |

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| IMPLICATIONS |
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Financial and Value for Money

- 1.1 There is a £23.00 fee paid by the applicant for the processing of the transfer of the premises licence.

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:
- Dismiss the appeal; or
 - Substitute the decision for another decision which could have been made by the Council; or
 - Remit the case to the Council to dispose of it in accordance with the direction of the Court: and
 - Make an order for costs as it sees fit.

Personnel

- 3.1 None directly arising from this report.

Equalities Impact

- 4.1 The equality impact of this application has been considered to have no significant effects from the information given.

Health and Safety

- 5.1 None directly arising from this report.

Environmental Sustainability

- 6.1 None directly arising from this report.

Property and Asset Management

- 7.1 None directly arising from this report.

Risk Management

- 8.1 None directly arising from this report.

Corporate objectives and priorities for change

- 9.1 The information contained in this report contributes to the council's plan of a thriving and sustainable economy with good quality services that meet local needs.