

Application to vary the Premises Licence in respect of the Lydiard Park, Swindon, SN5 3PA

Licensing Panel

Date: 26 November 2013

Author: Licensing Officer

Wards Affected: Central

Purpose

- To consider the representations received in response to an application to vary the premises licence issued in respect of Lydiard Park, Lydiard Tregose, Swindon, SN5 3PA and to determine the application.

Recommendation

The Licensing Committee is asked to, in light of the representations received from other persons as defined by the Licensing Act 2003, to determine the application. The options available to the Committee are:

- To grant the application in its current form with conditions consistent with the operating schedule;
- To grant the application but to modify the conditions by amending, omitting or attaching new conditions; or
- To reject the whole or part of the application.

1. Reasons

- 1.1 The Licensing Panel has a statutory duty to undertake the functions of the Licensing Authority, where these have been delegated by the Licensing Committee.

2. Detail

- 2.1 An application to vary the premises licence issued in respect of Lydiard Park, Lydiard Tregose, Swindon, SN5 3PA has been received from Swindon Borough Council.
- 2.2 A copy of the application is attached as **Appendix A**.
- 2.3 The application seeks to extend the existing hours authorised by the licence for the sale of alcohol, provision of entertainment and provision of late night refreshment. The additional hours are as follows:

Sale by retail of alcohol

Monday to Sunday

09:00 – 01:00

Films, Plays and performance of dance

Monday to Sunday

09:00 – 00:00

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

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Live music and recorded music

Monday to Sunday

09.00 – 01.00

Late night refreshment

Monday to Sunday

09.00 – 01.00

- 2.4 The applicant has offered additional steps to ensure the promotion of the licensing objectives if the application is granted and these will be attached to any licence.
- 2.5 The application was received on 6 September 2013. It was circulated to all responsible authorities and advertised in accordance with the requirements of the Licensing Act 2003 and associated regulations. The last date for representations to be received was 4th October 2013.
- 2.6 Representations have been received from 'other persons' namely residents within the vicinity, who consider that the granting of the application would undermine the prevention of crime & disorder licensing objective. Copies of these representations are attached as **Appendix B**. No representations were received from any responsible authority.
- 2.7 The existing premises licence was granted to Swindon Borough Council on 3 February 2011. It authorises
- Sale by retail of alcohol
- Monday to Sunday 09.00 – 00:00
- Regulated entertainment
- Monday to Sunday 09:00 – 00:00
- 2.8 The existing premises licence is attached to the report as **Appendix C**.
- 2.9 The Panel is requested to consider the application to vary the premises licence on its merits, having regard to the Swindon Borough Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 2.10 The Sub-Committee must have regard to the information put forward by the applicant and the representations made by any responsible authority and take such steps (if any) that it considers appropriate for the promotion of the licensing objectives. The steps, as set out in section 35(4) of the Licensing Act 2003 are:
- To modify the conditions of the licence, whether by alteration or omission of conditions or the addition of new conditions.
 - To reject the application in whole or in part.

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- 2.11 The Licensing Act 2003 (Hearings) Regulations 2005 require that the application be determined within five working days of the day (or the last day) on which the hearing is held;
- 2.12 The Licensing Act 2003 (Hearings) Regulations 2005, allow an authority to adjourn a hearing to a specified date or arrange for a hearing to be held on specified additional dates where it is considered to be necessary for the authority's consideration of any representation or notice made by a party. However, in each case the authority must notify the parties of the date, time and place of the specified date or additional dates at which the hearing is to take place.

3. Alternative Options

- 3.1 None

4 Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 4.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to crime & disorder or nuisance to the public or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs.

Legal and Human Rights Implications

- 4.2 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 4.3 This report relates to the requirements of Licensing legislation

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

- 4.4 The determination of the application will be made in accordance with set legal principles. The exercise of licensing powers by the Panel relates particularly to the LAA outcome of reducing crime and the fear of crime.

Diversity Impact Assessment

- 4.5 There is no DIA prepared in conjunction with this report

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Risk Management

- 4.6 There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the Policy is found not to comply with the requirements of the Licensing Act 2003 and associated legislation, regulations and guidance.

5 Consultees

- 5.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

6 Background Papers

- 6.1 Licensing Act 2003
- 6.2 Swindon Borough Council's Statement of Licensing Police
- 6.3 Amended Guidance Issued Under Section 182 of the Licensing Act 2003 (*October 2012*)

7 Appendices

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| Appendix A | Application to vary Premises Licence |
| Appendix B | Representations received from other persons |
| Appendix C | Copy of the current Premises Licence |
| Appendix D | Site Location |