

Licensing Sub-Committee

22 July 2015

Report Title

Licensing Act 2003 – Application for a Variation of a Premises Licence in respect of Baltic {Formerly Nataalka}, 18-19 Bargate Drive, Wolverhampton WV6 0QW.

Classification	Public	
Wards Affected	St Peters	
Accountable Strategic Director	Tim Johnson, Place	
Originating service	Licensing Services	
Accountable officer(s)	Rob Edge Tel Email	Section Leader (Licensing) 01902 55(0106) rob.edge@wolverhampton.gov.uk

Recommendation for action or decision:

The Licensing Sub-Committee is requested to consider this application for a Variation of a premises licence within a Cumulative Impact Zone.

1.0 Purpose of Report

1.1 To submit for consideration by the Sub-Committee an application for a variation of a premises licence, within the Cumulative Impact Zone.

2.0 **Background**

2.1 An application has been received from the agent of the holder of the premises licence, Licensed Inn-Tuition on behalf of Karwan Ahmad in respect of Baltic {Formerly Nataalka} 18-19 Bargate Drive, Wolverhampton WV6 0QW. A copy of the application is attached at Appendix 1.

2.2 It is the understanding of the licensing authority, that the application to vary this premises licence has been properly made. The statutory requirement to give notice of the application has also been complied with. The premises are located in the St Peters ward and a location plan is attached at Appendix 2

2.3 The premises are situated within a Cumulative Impact Zone. A copy of the policy and area which it covers is attached at Appendix 3

2.4 The current application was received on 8 June 2015 and is to change/add to current licensable hours to sell alcohol.

2.5 A copy of the current licence is attached at Appendix 4.

2.6 The following responsible authorities have been consulted on this application:

- Licensing Authority
- Environmental Health (Commercial)
- West Midlands Police
- West Midlands Fire Service
- Planning
- Social Services
- Trading Standards
- Local Health Board

2.7 Relevant representations have been received from:

- Licensing Authority
- West Midlands Police
- Local Health Board
- Environmental Health (Commercial)

Copies of the representations can be found at Appendices 5 - 8

2.8 The applicant, and all of those who have made representations, has been invited to attend the hearing.

3.0 **Policy Implications**

- 3.1 On 3 April 2015 the Statement of Licensing Policy was revised to give effect to the Cumulative Impact Policy (CIP) in four new areas of the city. This decision supported the view that the number, type and density of premises selling alcohol for consumption and/or Late Night Refreshment in areas within Wolverhampton City was causing problems of nuisance and disorder and therefore causing an adverse impact on the licensing objectives of prevention of crime and disorder and prevention of public nuisance.
- 3.2 The effect of this CIP is to create a **rebuttable** presumption that applications in respect of the sale or supply of alcohol and/or Late Night Refreshment for new Premises Licences, Club Premises Certificates or Provisional Statements and applications for variations of existing Premises Licences, Club Premises Certificates where the premises are situated in the Cumulative Impact Zone will be refused.
- 3.3 Essentially this means that applications that are likely to add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. (This policy does not act as an absolute prohibition on granting new licences in the Cumulative Impact Zones).
- 3.4 The premises are situated at 18-19 Bargate Drive, Wolverhampton WV6 0QW, which is within the Cumulative Impact Zone.
- 3.5 To rebut the presumption, explained in 3.3 above, the applicant is expected to demonstrate through their operating schedule and where appropriate with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced and not therefore have an adverse impact in the Licensing Objectives.
- 4.0 **Legal implications**
- 4.1 Part 4(1) of the Licensing Act 2003 states that a Licensing Authority must carry out its function under the Act with a view to promoting the Licensing Objectives, namely:-
- (a) The prevention of crime and disorder;
 - (b) Public safety;
 - (c) The prevention of public nuisance;
 - (d) The protection of children from harm.
- 4.2 The general duties imposed on Licensing Authorities means proper consideration must be given to the Licensing Objectives when determining a premises licence application.
- 4.3 Regard shall be had to guidance issued by the Secretary of State under Section 182 and Wolverhampton City Council's Licensing Policy Statement which includes a Cumulative Impact Policy.

- 4.4 Section 18 of the Licensing Act 2003 provides the Licensing Authority with the power to grant an application, subject to conditions, where appropriate
- 4.5 In order for the Cumulative Impact Policy to be relevant to this application the Sub-Committee
- I. Should be satisfied it applies due to:
- (a) Premises being located within the Cumulative Impact Zone;
 - (b) Licensable activity applied for at the premises is to include sale of alcohol or late night refreshment and is;
 - (c) The likelihood that the activity will have an impact on the crime and disorder or prevention of public nuisance licensing objectives.

And where the Cumulative Impact Policy is deemed to apply:

- II. Should refuse an application based upon the Cumulative Impact Policy unless sufficient evidence is produced, by the applicant, to rebut the presumption that a licence will not be granted or varied.
- 4.6 If the Sub-Committee are satisfied sufficient evidence has been produced to show the premises will not add to the Cumulative Impact already being experienced, the application should not be refused based upon Cumulative Impact Policy. [SH/09072015/O]

5.0 Human Rights and Equalities Implications

- 5.1 This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in Section 4 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
- 5.2 Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the Council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

6.0 Financial Implications

- 6.1 Councillors agreed fees and charges for this function on 21 January 2015; the fees are based on a cost recovery basis. The fee for this application is £190.00, and is non-refundable. [TK/09012015/H]

7.0 Environmental Implications

- 7.1 This report has environmental implications in that there is a potential for disturbance caused by patrons using the premises and nuisance caused by litter and waste originating from the premises.