



Licensing Sub-Committee

3 September 2014

Report Title

Licensing Act 2003 – Application for a Premises Licence in respect of Wolves Spice, 50 Lichfield Street, Wolverhampton WV1 1DG.

Classification

Public

Wards Affected

St Peters

Accountable Strategic Director

Tim Johnson, Education and Enterprise

Originating service

Licensing Services

Accountable employee(s)

Rob Edge

Section Leader (Licensing Services)

Tel

01902 55(0106)

Email

rob.edge@wolverhampton.gov.uk

Recommendation for action or decision:

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

1.0 Purpose of Report

1.1 To submit for consideration by the Sub-Committee an application for a premises licence.

2.0 Background

2.1 The application was received on 10 July 2014 from Zarjab Khan for a premises licence in respect of Wolves Spice, 50 Lichfield Street, Wolverhampton WV1 1DG, a copy of the application is attached at Appendix 1

2.2 The premises are in St Peter's ward and a location plan is attached at Appendix 2.

2.3 The application is in respect of late night refreshment, the precise detail of what has been applied for can be found within the operating schedule of the application

2.6 Wolves Spice is situated within the Cumulative Impact Zone. A copy of the policy and area which it covers is attached at Appendix 3.

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

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

2.8 The following responsible authorities have made relevant representations and are objecting to the grant of this application citing the Cumulative Impact Policy and the licensing objectives:

- Environmental Health (Commercial)
- Licensing Authority

Copies of their representations are attached at Appendices 4-5

2.10 The applicant, the Licensing Authority and Environmental Health (Commercial) have been invited to attend this hearing.

2.11 Amendments/conditions agreed between the applicant and Responsible Authorities are attached at Appendices 6-7.

3.0 Policy Implications

3.1 On 4 November 2009, based on evidence submitted by West Midlands Police, the Statement of Licensing Policy was revised to give effect to the Cumulative Impact Policy

PUBLIC
NOT PROTECTIVELY MARKED

(CIP). This decision supported the view that the number, type and density of premises selling alcohol for consumption and/or Late Night Refreshment in an area within the ring road in Wolverhampton City Centre was causing problems of nuisance and disorder and therefore causing an adverse impact on the licensing objectives of prevention of crime and disorder.

- 3.2 The Cumulative Impact Policy has been further revised on 28 April 2010 and 7 January 2011 to include the licensing objective, prevention of public nuisance.
- 3.3 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 City Centre Cumulative Impact Zone will be refused.
- 3.4 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 City Centre Cumulative Impact Zone).
- 3.5 The premises are situated at 50 Lichfield Street, Wolverhampton WV1 1DG, which is within the City Centre Cumulative Impact Zone.
- 3.6 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.

PUBLIC
NOT PROTECTIVELY MARKED

4.4 Within Wolverhampton City Council's Statement of Licensing Policy there is reference to a Cumulative Impact Policy. 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. [KR/01082014/U].

5.0 Human Rights and Equalities Implications

5.1 This report has human rights implications for both the applicants and the residents from the local neighbourhood. Refusal of a licence may have financial implications for a licensee's business and livelihood whereas granting a licence 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.

5.3 The Public Sector Duty of the Equality Act 2010 also requires the Council to pay due regards (i.e. eliminate discrimination, harassment and victimisation; advance equality of opportunity and foster good relations), in any decisions it undertakes

6.0 Financial Implications

6.1 Councillors agreed fees and charges for this function on 26 February 2014; the fees are based on a cost recovery basis. The fee for this application is £190.00, and is non-refundable. [TK/13022014/Q]

7.0 Environmental Implications

7.1 This report has environmental implications, in that there is a potential for disturbance caused by customers using the premises.