

CANNOCK CHASE COUNCIL

LICENSING SUB-COMMITTEE

2 JUNE 2009

REPORT OF HEAD OF ENVIRONMENTAL HEALTH

LICENSING ACT 2003

APPLICATION FOR VARIATION TO A PREMISES LICENCE

PRAIRIE FARM PUBLIC HOUSE, 52, BROADWAY, HEDNESFORD, STAFFS, WS12 4HW

1. Reason for referral

- 1.1 This application has not been granted under officers delegated powers because representation has been received from Staffordshire Police and several local residents who live within the vicinity of the Prairie Farm Public House.

2.

Name and Address of Premises.	Prairie Farm Public House, 52, Broadway, Hednesford, Staffs., WS12 4HW
Applicant Details	Mrs Carolyn Aylett, 16, Broadway, Hednesford, Staffs, WS12 4HP
Date of Application	9 th April 2009.
Fees Paid	Band B: £190.

<p>Current Licensable Activities</p>	<p>The premises currently has the benefit of a licence granted on 21 November 2005 under the Licensing Act 2003.</p> <p>The Licence currently permits:</p> <ol style="list-style-type: none">1. Sale by Retail of Alcohol; on and off the premises.2. Live Music3. Recorded Music4. Performances of Dance5. Anything of a Similar Description to Live Music, Recorded Music and Performances of Dance.7. Provision of Facilities for Making Music.6. Provision of Facilities for Dancing.8. Anything of a Similar Description of Provision of Facilities for Making Music and Dancing.
<p>Current Licensing Hours:</p>	<p><u>Sale by Retail of Alcohol</u></p> <p>Monday to Saturday: 11.00 to 23.00hrs.</p> <p>Sundays: 12.00 to 22.30hrs.</p> <p>Christmas Day: 12.00 to 15.00 & 19.00 to 22.30hrs.</p> <p>On New Years Eve: From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day</p>

<p>Current Licensing Hours:</p>	<p><u>Provision of Regulated Entertainment.</u></p> <ol style="list-style-type: none"> 1. Live Music 2. Recorded Music 3. Performances of Dance 4. Anything of a Similar Description to Live Music, Recorded Music and Performances of Dance. 5. Provision of Facilities for Dancing. 6. Provision of Facilities for Making Music. 7. Anything of a Similar Description of Provision of Facilities for Making Music and Dancing. <p>Thursday to Sunday only 20.00 to 23.00hrs</p> <p>On New Years Eve: From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p>
<p>Proposed Variation to Existing Licence.</p> <p>Note: See page 3 of the application form given at Annex 1.</p>	<p>The variation sought is to extend the permitted hours for:</p> <p><u>1) Sale by Retail of Alcohol:</u></p> <p>Sunday to Thursday: 11.00 to 24.00hrs.</p> <p>Friday & Saturday: 11.00 to 01.00hrs.</p> <p>Christmas Eve, Boxing Day & Saturdays prior to Bank Holidays: 11.00 to 01.00 hrs. On New Years Eve: From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p> <p><u>2) Regulated Entertainment</u></p> <p>Sunday to Thursday: 19.00 to 24.00hrs.</p> <p>Friday & Saturday: 19.00 to 01.00hrs.</p> <p>Christmas Eve, Boxing Day & Saturdays prior to Bank Holidays: 19.00 to 01.00hrs</p> <p>On New Years Eve: From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p>

3. Human Rights Act 1998 Implications

- 3.1 Article 6 of the Act provides that where a person's civil rights and obligations are being determined, s/he is entitled to a "fair trial". The Council complies with Article 6 in that it gives the person the opportunity to state their case, will make a decision within a reasonable period of time and will give reasons for its decision.
- 3.2 The Article also provides for the issue to be determined by an independent tribunal. The right of appeal to the Court against the Council's decision fulfils this.
- 3.3 The Council observes the rules of natural justice and its procedures are consistent with Article 6 of the Human Rights Act 1998.
- 3.4 Article 14 provides a prohibition against discrimination. This does not stand alone but answers that where any other rights are affected, they must not be dealt with in a discretionary way.

4. Legal Implications

- 4.1 Under the Licensing Act 2003 ('the Act') s.34, the holder of a premises licence is entitled to apply to the licensing authority for variation of the licence.
- 4.2 As relevant representations have been made in respect this application for variation of a premises licence, and no agreement has reached between the parties that a hearing is not required, the licensing authority must hold a hearing to consider the representations made. (s.35(3)(a) of the Act).
- 4.3 The Licensing Committee/Licensing Sub-Committee must have regard to the representations and take such steps, if any, as it considers necessary for the promotion of the licensing objectives. (s.35(3)(b) of the Act).
- 4.4 In accordance with s.35(4) of the Act, the steps that can be taken by the Licensing Committee/Licensing Sub-Committee in dealing with this application are limited to:
- (a) modification of the conditions of the licence;
 - (b) rejection of the whole or part of the application;
- 4.5 The Licensing Committee/Licensing Sub-Committee must only consider relevant representations which for the purposes of this application:
- (a) are about the likely effect of the grant of the application on the promotion of the licensing objectives;
 - (b) are made by an interested party or responsible authority;
 - (c) have not been withdrawn; and
 - (d) are not frivolous or vexatious if made by an interested party.
- 4.6 The application for variation of the premises licence does not provide a basis for the entire licence to be reviewed. However, the Licensing Committee/Licensing Sub-Committee is entitled to consider the possible implications and affects of the variation in relation to existing issues that may have arisen concerning the operation of the current premises licence in the context of the promotion of the licensing objectives.

4.7 The Applicant, the licence holder and other person who made relevant representations in relation to the application have a right of appeal to the Magistrates Court should they disagree with the Licensing Sub Committees decision.

5. **Financial Implications**

5.1 Fees for the variation of a premises licence are payable upon application. They are not refundable should the application be refused. However if the application is refused or granted with conditions, the responsible authority and any Interested Party, including the applicant has a right of appeal to the Magistrates Court against the decision.. The Court is however, less likely to award costs against the Council if it is satisfied that the council had acted honestly, reasonably and properly and on grounds which appeared to be sound.

6.

Annexes Attached	<p>Annex 1 Application Form</p> <p>Annex 2 Letter of Representation from Staffordshire Police.</p> <p>Annex 3 Maps of the Premises Location</p> <p>Annex 4 Letter from Miss P Williams dated 15 April 2009 and the attached 43 name petition.</p> <p>Annex 5 Letter from Miss P Williams received on 14 May 2009.</p> <p>Annex 6 Letter from Mr G. Hodson dated May 12.</p> <p>Annex 7 Letter from Mr Ray Cooper dated 12 May 2009.</p> <p>Annex 8 Letter from Mrs G. West received on 14 May 2009.</p> <p>Annex 9 Letter from Mr & Mrs Fellows dated 12 May 2009</p> <p>Annex 10 Letter from C Kelsall dated 12 May.</p>
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7.

<p>Determination Required</p>	<p>Members are asked to determine whether the application for a variation of the premises licence in respect of the Prairie Farm Public House, Broadway, Hednesford, can be granted, with or without conditions, having due regard to the 4 Licensing Objectives, Council's Licensing Policy and Guidance issued under s182 of the Licensing act 2003 by the Secretary of State.</p> <p>The 4 Licensing Objectives are:</p> <ul style="list-style-type: none">• The Prevention of Crime & Disorder• Public Safety• The Prevention of Public Nuisance• Protection of Children from Harm
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