

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE

31st AUGUST 2005

REPORT OF THE DIRECTOR OF LAW AND PROPERTY

APPLICATION TO VARY A PREMISES LICENCE

1.0 PURPOSE

1.1 To consider the application for variation of the premises licence in respect of the Smith Arms, Compton Grove, Halesowen.

2.0 BACKGROUND

2.1 On the 28th June 2005, an application was received by David & Deborah Baggott in respect of the Smith Arms, Halesowen to convert an existing licence into a premises licence and to vary the premises licence simultaneously. The application for conversion and variation of licence is attached to this report at Appendix 1.

2.2 The application had the following requisite certified copies of documents enclosed:-

- (1) Relevant Justices on Licence
- (2) Correct Fee (£250.00)
- (3) Plan of the premises
- (4) Consent of the proposed Designated Premises Supervisor
- (5) Consent of the current licensee
- (6) AWP Permit

2.3 The application to vary the premises licence is as follows:

To extend the hours for regulated entertainment:

Recorded Music/Films/Indoor Sporting Events/Dancing
Monday – Sunday 10.00 – 01.00

Live Music Monday – Sunday 10.00 – 00.00

(Extra hour requested on Bank Holiday Weekends, which includes Friday, Saturday, Sunday and Monday of those weekends)

To extend the hours for the sale of alcohol:

Monday – Sunday 10.00 – 01.00

(Extra hour requested on Bank Holiday Weekends, which includes Friday, Saturday, Sunday and Monday of those weekends)

To provide late night refreshment:

Monday – Sunday 23.00 – 01.45

- 2.4 Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
- 2.5 On 21st July 2005, the Directorate of Urban Environment made representations. A copy is attached as Appendix 2.
- 2.6 Representations have been made by residents and a councillor acting on behalf of residents. Copies are attached as Appendix 3.

3.0 PROPOSAL

- 3.1 That the Sub-Committee consider the application made in respect of the Smith Arms, Halesowen to vary the premises licence.

4.0 FINANCE

- 4.1 There are no financial implications.

5.0 LAW

- 5.1 The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, Section 11, Part 3 and Schedule 8, Part 1.
- 5.2 Pursuant to Section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - (a) Hold a hearing to consider item, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) Having regard to the representations, take such of steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the Licensing objectives.
 - (c) The steps are:-
 - (1) to modify the conditions of licence;

(2) to reject the whole or part of the application.

5.3 Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where an application (or any part of an application) is granted or rejected under Section 35 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to:-

- (a) the applicant;
- (b) any person who made relevant representations in respect of the application and
- (c) the Chief Officer of Police for the police area in which the premises are situated.

5.4 In pursuance of Regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005), the Licensing Authority must make its determination at the conclusion of the hearing.

5.5 If the Licensing Authority refuse to grant the application to vary the premises licence, there is a right of appeal to the Magistrates' Court pursuant to Schedule 5, Part 1(b).

5.6 Pursuant to Section 4(1), (2) and (3), Schedule 5 of the Licensing Act 2003, where the Licensing Authority grant an application to vary a premises licence in whole or in part. The applicant may appeal against any decision to modify the conditions of the licence under subsection 4(a) of Section 35 of the Licensing Act 2003.

Where a person who made relevant representations to the application desires to contend:-

- (a) that any variation made ought not to have been made, or
- (b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified item in a different way, under subsection 4(a) of Section 35 of the Licensing Act.

They have the right of appeal to the Magistrates' Court.

6.0 EQUAL OPPORTUNITIES

6.1 This report complies with the Council's policy on equal opportunities.

7.0 RECOMMENDATION

7.1 That the Sub-Committee determine the application.

8.0 BACKGROUND PAPERS

8.1 None.

John Poyellis

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DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs J Elliott - Ext: 5377