

**Licensing Sub-Committee 4 – 17<sup>th</sup> February 2009**

**Report of the Interim Director of Law and Property**

**Application to Vary a Premises Licence**

**Purpose**

1. To consider the application for variation of the premises licence in respect of the Court House, New Street, Dudley, West Midlands.

**Background**

2. On 29<sup>th</sup> December 2008 an application was received from Fraser Brown Solicitors in respect of The Court House, New Street, Dudley, West Midlands to vary a premises licence. The application for variation of licence is attached to this report as Appendix 1.
3. The application had the following documents enclosed:-
  - (1) Correct Fee (£190.00)
  - (2) Plan of the premises
4. On the 6<sup>th</sup> July 2005, an application was received from John Gaunt & Partners, Solicitors on behalf of the Wolverhampton and Dudley Breweries in respect of the Court House, New Street, Dudley, West Midlands to convert an existing licence into a premises licence and to vary the premises licence simultaneously.
5. The application to vary the premises licence was as follows:-

To allow the sale of alcohol and regulated entertainment

Mon – Sat inc	10.00 – 03.00
Sun	11.00 – 03.00

To permit the premises to open for licensable activities to show the broadcast of television sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 14 days prior notice in writing to the police before the premises intent to open, such notification to include the opening times and the sporting event which is to be shown. (This is an agreement with John Gaunt Solicitors for all Wolverhampton and Dudley Breweries licensing applications).

To permit provisions of refreshments after 23.00 until 03.00.

To remove all embedded restrictions under Licensing Act 1964, Children & Young Persons Act 1933, Cinematograph (Safety) Regulations 1955 and Sporting Events (Control of Alcohol) Act 1985.

6. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities was received.
7. Representations were received from the Directorate of Social Services.
8. Representations were also received from the Directorate of the Urban Environment.
9. On the 24<sup>th</sup> August 2005, Graham Tilby of the Directorate of Social Services withdrew the objection previously made.
10. The application was considered by the Committee on the 25<sup>th</sup> August 2005, where it was resolved that the application be granted for the following:-

#### Sale of Alcohol

Mon - Saturday	10.00 – 00.00
Sunday	11.00 – 23.00

#### Regulated Entertainment

Monday – Saturday	10.00 – 23.00
Sunday	11.00 – 23.00

#### CONDITIONS

Regulated entertainment beyond incidental music not permitted after 11.00pm. All doors (except for access and egress) and windows to be kept closed during periods of entertainment beyond incidental music.

The application for additional hours in respect of the broadcast of televised sporting events as well as for the late provision of refreshment is withdrawn.

The premises are to close at 12.30am Monday – Sunday

The application for additional hours on up to 20 occasions per annum is also withdrawn.

All other conditions as per the applicants operating schedule save only in so far as they are consistent with the above conditions and amended application.

The Sub-Committee was of the opinion that the hours set for the sale of alcohol and regulated entertainment should provide an opportunity for greater flexibility and in turn a reduction in customers leaving the premises in large numbers at a set time with consequent nuisance and associated anti-social behaviour to local residents. This approach is consistent with the principles contained within the licensing legislation and our licensing policy.

11. That licence was subsequently transferred on the 24<sup>th</sup> October 2006, again on the 1<sup>st</sup> August 2008, and again on the 1<sup>st</sup> September 2008. The current licence is issued as set out in paragraph 10.

12. An application to vary this licence has been received as follows:-
- To amend the hours for the provision of licensable activities.
  - To amend the licensable activities authorised by the Licence.
  - To amend the conditions, restrictions and limitations applicable to the Licence.
  - To amend the layout of the premises as shown on the plans submitted in support of the application.
- Sale of Alcohol
- Monday to Sunday            07.00 – 02.00
- Films/Indoor Sporting Events/Live Music/Recorded Music/Performance of Dance/Provision of Facilities for Making Music/Provision of Facilities for Dancing
- Monday – Sunday            07.00 – 02.00
- Late Night Refreshment
- Monday to Sunday            23.00 – 02.00
- If applicable, an additional hour to the standard and non-standard times on the day when British Summer time commences.
- From the standard start timing on 31<sup>st</sup> December to the standard start timing on 1<sup>st</sup> January.
13. The current premises licence is held by Mr A G McMeeking and the current designated premises supervisor is Mrs C Turton.
14. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
15. Representations have been received from local residents in the form of a petition in respect of public nuisance. Copies of this petition have been sent to the Committee members, interested parties and the Applicant in accordance with the Licensing Act 2003.
16. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

### **Finance**

17. There are no financial implications.

### **LAW**

18. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, Part 3 Section 34.

19. 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.
20. 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.
21. 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.
22. In pursuance of Schedule 5, Section 4 if the Licensing Authority refuse to grant the application vary the premises licence, there is a right of appeal to the Magistrates' Court.
23. In pursuance of Schedule 5, Section 4(2) 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.
24. In pursuance of Schedule 5 Section 4(3) 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.

## **Equality Impact**

25. This report complies with the Council's policy on equal opportunities.
26. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
27. There has been no consultation or involvement of children and young people in developing these proposals.

## **Recommendation**

28. That the Sub-Committee consider the application to vary the premises licence in respect of The Court House, New Street, Dudley, West Midlands.



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**List of Background Papers - none**