

DUDLEY METROPOLITAN BOROUGH

LICENSING & SAFETY SUB-COMMITTEE

20TH JUNE 2005

REPORT OF THE DIRECTOR OF LAW AND PROPERTY

APPLICATION TO VARY PREMISES

1.0. PURPOSE

- 1.1. To consider the application for variation of the premises licence in respect of the Woodman Inn, Bromsgrove Road, Halesowen.

2.0. BACKGROUND

- 2.1. On the 25th April 2005 an application was received from TLT Solicitors on behalf of Punch Taverns Plc in respect of the Woodman Inn, Bromsgrove Road, 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 as Appendix 1. There have been no objections to the application for conversion which has been determined at officer level. This report deals solely with the remaining application to vary the licence.

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

- (1) Relevant Justices on Licence.
- (2) Consent of the proposed designated premises supervisor.
- (3) Consent of the current licensee.
- (4) Plan of premises.
- (5) Correct fee (£190.00).

- 2.3 The application to vary the premises licence is as follows for the sale of alcohol, live and recorded music:

- |     |                               |                        |
|-----|-------------------------------|------------------------|
| (1) | Monday, Tuesday and Wednesday | 10.00 a.m -12 midnight |
|     | Thursday, Friday and Saturday | 10.00 a.m -1.00 a.m.   |
|     | Sunday                        | 11.00 a.m -12 midnight |

- (2) For May Bank Holiday, Spring Bank Holiday and August Bank Holiday:-

Friday and Saturday	10.00 a.m -2.00 a.m.
Sunday	11.00 a.m -1.00 a.m.
Monday	10.00 a.m -1.00 a.m.

- (3) For Easter Bank Holiday:-

Thursday, Friday and Saturday	10.00 a.m -2.00 a.m.
Sunday	11.00 a.m -1.00 a.m.
Monday	10.00 a.m -1.00 a.m.

- (4) Christmas Eve and Boxing Day

To reflect the hours requested - paragraph 2.3 of this report whichever days they fall on.

The conversion of the licence to a premises licence incorporated the existing hours of Christmas Day and New Years Eve Day i.e.

New Years Eve	10.00 a.m -12 midnight
New Years Day	12 midnight -11.00 p.m.
Christmas Day	12 noon -3.00 p.m. 7.00 p.m.-10.30 p.m.

- 2.4 Confirmation that copies of the application form and supporting documentation have been served on the responsible authorities has been received.
- 2.5 On the 30th April 2005 objections to this application were received from Councillor and Mrs Burston. A copy of the objections is attached as Appendix 2 to this report.
- 2.6 The following objections have also been received:-

4th May 2005 - Mr Royston Randall  
5th May 2005 - Mr Adrian Brindley  
5th May 2005 - Mr George and Mrs Pearl O'Reilly  
16th May 2005 - Mr and Mrs Hunt  
19th May 2005 - Mr Roger Martin  
19th May 2005 - Mr Geoff Hogan  
19th May 2005 - Ms Karen Burns  
19th May 2005 - Mr Daniel Simner  
22nd May 2005 - Mr Frank Kelley  
22nd May 2005 - Mr Bernard Walsh  
23rd May 2005 - Mr and Mrs G L Carter  
24th May 2005 - Mr and Mrs Keen and Mr and Mrs Wincott

24th May 2005 - Mrs Ruth Byron, Mrs D Barge, Mrs S Faulkner and  
Mrs Chris Watts  
24th May 2005 - Mr I G Lloyd  
24th May 2005 - Mrs Melanie Clinton

Copies of these objections are attached to this report as Appendix 3.

- 2.7 On the 23rd May 2005 representations were received from Environmental Health Division of the Directorate of the Urban Environment. A copy of these representations is attached as Appendix 4 to this report.
- 2.8 On the 23rd May 2005 Carl Phillips, Liquor Licensing Clerk, contacted TLT Solicitors acting on behalf of the applicant for mediation purposes in an effort to see if the parties could reach an agreement with regard to the representations made by the Environmental Health Division.
- 2.9 No other representations have been received by any other relevant authority.

### 3.0 PROPOSAL

- 3.1. That the Sub-Committee consider the application made by TLT Solicitors on behalf of Punch Taverns plc in respect of the Woodman Inn, Bromsgrove Road, Halesowen for the variation of 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 steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the Licensing objectives.

(4) The steps are:-

(a) To modify the conditions of licence;

(b) 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 for the new 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 for the new 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 granting a new licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified it in a different way, under subsection 4(a) of Section 35 of the Licensing Act.

They have the right to 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