

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE 5 – 25th SEPTEMBER 2007

REPORT OF THE 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 Fairfield, Fairfield Road, Halesowen, West Midlands.

Background

2. On 6th July 2005, an application was received from John Gaunt & Partners, Solicitors, on behalf of the Wolverhampton and Dudley Breweries, in respect of the Fairfield, Fairfield Road, Halesowen, to convert an existing licence into a premises licence and to vary the premises licence simultaneously.
3. The application had the following requisite certified copies of documents enclosed:-

- (1) Relevant Justices On Licence
- (2) Correct Fee (£395.00)
- (3) Plan of the premises
- (4) Consent of the proposed Designated Premises Supervisor
- (5) Consent of the current licensee
- (6) Amusements with Prizes Machines Permit

4. The application to vary the premises licence was as follows:

To allow sale of alcohol and regulated entertainment

Monday – Thursday (inc)	10.00 - 00.00
Friday and Saturday	10.00 - 01.00
Sunday	11.00 – 00.00

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 refreshment after 23.00 until 00.00 (Monday, Tuesday, Wednesday, Thursday and Sunday) after 23.00 until 01.00 Friday and Saturday.

5. 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 were served on the relevant authorities was received.
7. Representations were received from Local residents and brought to the attention of the Committee.
8. This matter was considered by the Committee on the 25th August 2005 the Committee resolved that the licence be issued for the following days, times and additional conditions:

Sale of Alcohol:

Monday	10.00 – 00.00
Tuesday	10.00 – 00.00
Wednesday	10.00 – 00.00
Thursday	10.00 – 00.00
Friday	10.00 – 01.00
Saturday	10.00 – 01.00
Sunday	11.00 – 00.00
Bank Holiday	
Christmas Day	
Boxing Day	

Regulated Entertainment:

Monday – Thursday	10.00 – 11.30
Friday and Saturday	10.00 – 00.00
Sunday	11.00 – 11.30

Outside regulated entertainment to finish no later than 10.30 Monday – Sunday

Conditions:

- Licensee to provide regular supervision of car park to ensure no noise nuisance to local residents takes place, particularly late at night and on Sunday afternoons.
- Doors (save for access and egress) and windows to be kept shut during periods of entertainment other than incidental music.
- Signage to be provided at exit doors and on the car park advising customers to leave the premises quietly and respect local residents.
- Premises to open for licensable activities during the broadcasting of television sporting events outside normal operating hours, to take place on

14 days written notice to the police, the police having 7 days to object prior to the event.

- Additional hours on up to 20 occasions per year withdrawn.
 - Provision of refreshment after 23.00 until midnight Sunday – Thursday and until 1.00 am Friday and Saturday.
 - All other conditions as per the operating schedule.
 - The licensee will ensure that no commercial vehicles park on the car park overnight.
9. The current premises licence holder is Marston's Plc (formerly Wolverhampton and Dudley Breweries Limited) and the current designated premises supervisor is a Mr S O'Neill.
10. On 6th August 2007, John Gaunt and Partners made application on behalf of Marston's Inns and Taverns for the variation of the premises licence as follows:

Externally

- To construct all weather garden area to the front of the property
- Such area to have a paving stone base and seating
- To extend licensable activities of retail sale of alcohol and late night refreshment to external area
- For such activities to operate to the existing hours of the premises
- To also include within the licensed area the pre existing patio to the rear side of the property, currently used for the provision of food and alcohol (with the benefit of waitress service), for the licensable activities of retail sale of alcohol and late night refreshment as marked on the plan for indicative purposes.

Internally

- Formation of new main entrance to the front of the premises by creation of double lobby so as to facilitate improved access.
- Removal of distinction between bar and existing lounge by removal of internal wall.
- Significant reduction in size of bar serverly so as to facilitate the single internal room.
- Construction of mock fireplace to existing lounge area.
- To toilet facilities – formation of disabled facility within existing toilet area.
- Non-licensed area conversion of existing bottle store freezer and kitchen to form new extended kitchen incorporating part of existing licensed area.
- Conversion of existing cleaners area and wash up to provide improved staff facilities.
- Appropriate refurbishment throughout.

It is anticipated that these works will be undertaken on a split basis with the all weather garden to the front of the premises being constructed initially and the significant internal works being undertaken subsequently.

The internal works are scheduled to commence in November 2007, with a work period of 12 weeks.

No amendments are proposed to the general method of operation of the premises, or the hours of opening, save for sale of alcohol, late night refreshment and recorded music Monday – Thursday and Sunday until 00.00 and Friday and Saturday until 01.00 with respect to external use.

Licensable activities for the external areas are to be restricted to retail sale of alcohol, late night refreshment and recorded music.

No conditions on the licence are to be varied or removed.

11. A copy of the application and plan are attached to this report as Appendix 1.
12. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
13. Representations have been received from the Director of the Urban Environment and are attached to this report as Appendix 2.
14. Comments have also been received from development control and a copy of the letter sent to the applicants from the Development Control Officer is attached to this report as Appendix 3, together with a reply from John Guant and Partners, withdrawing this application for provision of regulated entertainment by way of recorded music in the external area.

Finance

15. There are no financial implications.

Law

16. 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.
17. 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.

18. 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.
19. 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.
20. 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).
21. 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.

Equal Opportunities

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

Recommendation

23. That the Sub-Committee determine the application.

John P. ...

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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers

None.