

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE

5th 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 Black Horse, Illey Lane, Halesowen.

2.0 BACKGROUND

- 2.1 On the 12th May 2005, an application was received from Spirit Group in respect of the Black Horse, Illey Lane, 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 (£395.00)
- (3) Plan of the premises
- (4) Consent of the proposed Designated Premises Supervisor
- (5) Consent of the current licensee
- (6) Supper Hours Certificate.

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

To extend the hours for the sale of alcohol:-

Monday/Tuesday/Wednesday/Sunday	10.00 – 00.00
Thursday/Friday/Saturday	10.00 – 01.00

For statutory Bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour beyond these times.

To allow entertainment in line with the current provisions of Section 182 Licensing Act 1964 ("two in a bar"): -

Monday/Tuesday/Wednesday/Sunday	10.00 - 00.00
Thursday/Friday/Saturday	10.00 - 01.00

To allow credit sales

To provide late night refreshment:-

Monday/Tuesday/Wednesday/Sunday	23.00 – 01.00
Thursday/Friday/Saturday	23.00 – 02.00

- 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 3rd June 2005, representations were made by the Directorate of Urban Environment. A copy of this is attached as Appendix 2.
- 2.6 On 9th June 2005, The Spirit Group were contacted as they failed to advertise the application in the correct manner. In agreement with the Licensing Department, Spirit Group agreed to place an advertisement notice in their premises and extend the period for objections. A copy of the letter is attached as Appendix 3.
- 2.7 Representations have been made by residents. A copy of these objections are attached as Appendix 4.

3.0 PROPOSAL

- 3.1 That the Sub-Committee consider the application made on behalf of the Spirit Group in respect of the Black Horse, Illey Lane, 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 it 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

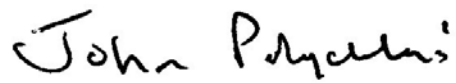
6.1 This report complies with the Council's policy on equal opportunities.

7.0 RECOMMENDATION

7.1 That the Sub-Committee determine the application.

8.0 BACKGROUND PAPERS

8.1 None.

A handwritten signature in black ink, appearing to read 'John Pym'.

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DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs J Elliott - Ext: 5377