

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 Monty's Wine Bar, 1 High Street, Sedgley, West Midlands.

Background

2. On 5th August 2005, an application was received from Elliott & Allen, Solicitors, in respect of Monty's Wine Bar, 1 High Street, Sedgley, West Midlands, 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:-
 - Relevant Justices On Licence
 - Correct Fee (£395.00)
 - Plan of the premises
 - Consent of the proposed Designated Premises Supervisor
 - Consent of the current licensee
 - Public Entertainments Licence
4. The application to vary the premises licence was as follows:

To allow sale of alcohol and regulated entertainment

Monday – Sunday 11.00 – 02.00

To allow the provision of late night refreshment

Monday – Sunday 11.00 – 02.00

New Years Eve 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.

5. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
6. Representations were received from the West Midlands Police.
7. Representations were also received from the Directorate of the Urban Environment.
8. The Planning Department made the following comments:

Condition 3 of the Planning Permission states the following:
97/50591 Change of use to Wine Bar and Café (Excluding Takeaway Sales)

- Appeal allowed.

The premises shall not open for business outside the hours of 08.00 to 23.30 each day except Saturdays, when they shall close by midnight.

9. This application was due to be considered by the Committee on 30th September 2005. However, following mediation prior to the meeting, the representations were withdrawn and the licence issued as follows:-

Sale of Alcohol)			
Playing of Recorded Music)			
Dancing)			
Late night refreshment)	Monday to Sunday	11:00	02:00
Performance of a Dance)			
Performance of live music)			
Making music)			

10. The current Premises Licence Holder is Monty's Café and Wine Bar Limited, and the current Designated Premises Supervisor is Miss E Spittle.
11. On 2nd August 2007, Monty's Wine Bar Limited, made application for the variation of the Premises Licence, as follows:-

- To allow access to smoking shelter through the rear door whilst entertainment is in place;
 - There will still be 'no entry' to the premises from the car park whilst entertainment is on;
 - Exit can still be permitted in case of an emergency;
 - CCTV will be fitted to cover the smoking shelter and external gates.
12. A copy of that application is attached to this Report as Appendix 1.
 13. Confirmation that copies of the application form and supporting documentation have been served on the relevant Authorities has been received.
 14. Representations have been received from the Directorate of the Urban Environment and are attached to this Report as Appendix 2.
 15. Representations have been received from the West Midlands Fire Service and a voluntary condition has been agreed with the applicant. A copy of that agreement is attached to this report as Appendix 3.
 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, Section 11, Part 3 and Schedule 8, Part 1.
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. 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).
23. 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.

Equality Impact

24. These proposals takes into account the Council's policy on equal opportunities.
25. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.

26. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

27. That the Sub-Committee determine the application.

John Prynne

.....
DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs. J. Elliott 5377
Telephone: 01384 815377
Email: janet.elliott@dudley.gov.uk

List of background papers