

**Licensing Sub-Committee 4 – 22<sup>nd</sup> November 2011**

**Report of the Director of Corporate Resources**

**Application to Vary a Premises Licence**

**Purpose of Report**

- 1 To consider the application for variation of the premises licence in respect of The Earl of Dudley, 135, Wellington Road, Dudley, West Midlands, DY1 1UA.

**Background**

2. On the 29<sup>th</sup> July 2005, Chamba & Co, Solicitors, made application on behalf of Orville Hines for the existing licence to be converted to a premises licence under the Licensing Act 2003, and to vary the premises licence simultaneously in respect of The Earl of Dudley, 135, Wellington Road, Dudley, West Midlands. DY1 1UA that licence was granted on the 19<sup>th</sup> September 2005.

3. The current premises licence is issued for the following

**Sale of Alcohol/Dancing/Playing of Recorded Music**

Monday – Thursday	12.00 – 00.00
Friday & Saturday	12.00 – 02.00
Sundays	12.00 – 01.00

**Late Night Refreshment**

Monday – Thursday	23.00 – 00.00
Friday & Saturday	23.00 – 02.00
Sundays	23.00 – 01.00

4. The current premises licence holder is Mr Orville Hines.
5. On the 29<sup>th</sup> September 2011, Mr Orville Hines made application for the variation of the premises licence in respect of The Earl of Dudley, 135 Wellington Road, Dudley, West Midlands, a copy of that application has been circulated to the Committee Members and Interested parties in accordance with the Licensing Act 2003.

6. The application had the following documents enclosed:-

- Correct Fee (190.00)
- Plan of the premises:

7. The application is as follows:

Sale of Alcohol/Live Music/Recorded Music/Provision of facilities for Dancing

Monday – Thursday 12.00 – 00.00  
Friday and Saturday 12.00 – 03.30  
Sunday 12.00 – 02.00

Late Night Entertainment

Monday – Thursday 23.00 – 00.00  
Friday & Saturday 23.00 – 03.30  
Sunday 23.00 – 02.00

Bank Holiday Monday until 2.00 am

Christmas Day until 3.30

Christmas Eve until 3.30

Boxing Day until 3.30

Start of permitted hours New Years Eve to close of permitted hours New Years Day

8. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.

9. Representations have been received from the Senior Environmental Health Officer (Food and Occupational Safety). A copy of those representations has been served on the applicant, Committee Members and all interested parties in accordance with the Licensing Act 2003.

10. Representations were also received from Councillor Malcolm Davis on behalf of local residents. A copy of those representations have been circulated to all interested parties in accordance with the Licensing Act 2003.

11. The West Midlands Police raised no objections to the application but requested that the following conditions be attached to the Licence:

- . CCTV to be installed to the specifications and locations of the West Midlands Police (Licensing Department at Brierley Hill Police Station).
- . CCTV to be recording at all times premises are open for any licensable activity.
- . All images from the CCTV system are to be held for a minimum of 28 days.
- . All images held on CCTV are to be made available immediately on request by any of the responsible authorities.

- . Signage at the premises to say that there is an absolute zero tolerance in relation to Misuse of Drugs.
- . Any person within the premises who is suspected of being in possession of unlawful drugs will be asked to submit to search. If they decline, they will be removed from the premises.
- . SIA registered door supervisors should be employed at the premises at a ratio agreed with the West Midlands Police.
- . All door supervisors will display a valid SIA badge whilst on duty.
- . Door supervisors should ensure that numbers of customers are appropriately monitored and controlled.
- . Door supervisors shall escort from the premises any persons(s) believed to be acting in a drunk or disorderly manner using minimum force necessary and without causing further disorder.
- . Door supervisors shall exclude any person subject to a pub watch/court order or licence holder imposed ban.
- . Door supervisors shall search customers and exclude those suspected of carrying illegal drugs or carrying offensive weapons.
- . Door supervisors shall confiscate any illegal drugs and deposit them in a drug safe recording the seizure in the incident book.
- . A Door supervisor Register shall be maintained and detail the name and badge number of the door supervisor and timings of duty. This register shall be produced on request to representatives of the West Midlands Police, Dudley MBC or the Security Industry Authority.
- . Door supervisors shall not allow entry to any person who appears to be in an intoxicated state.
- . Designated Premises Supervisors shall use best endeavours to ensure that a least one female door supervisor is on duty at the entrance in order to search female customers.
- . Door Supervisors shall ensure that customers leaving the premises including the car park area in a quiet and orderly fashion.
- . Persons who appear to be under the age of 25 shall be required to provide proof of age by way of passport, photo driving licence or Pass accredited proof of age scheme.
- . The premises shall adopt a written drug policy, which should be approved by the West Midlands Police.
- . The Designated Premises Supervisor shall maintain an incident Log Book and record any incidents of disorder, ejections, entry refusals giving rise to an incident or seizures of weapons or drugs. This book shall be provided on request

to any representative of the West Midlands Police or Dudley Metropolitan Borough Council.

- . Where outside promoters are used their details together with any other artists will be forwarded to the Police Licensing Officer at least 14 days before the event.
- 12. This application falls within the Council's responsibility for Taxi and Private Hire Licensing which has a direct link to the Council's key corporate priority that safety matters.

### **Finance**

- 13. There are no financial implications.

### **Law**

- 14. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
- 15. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
  - 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,
  - 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.
  - The steps are:-
    - To modify the conditions of licence;
    - To reject the whole or part of the application.
- 16. 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 :-
  - the applicant;
  - any person who made relevant representations in respect of the application and
  - the Chief Officer of Police for the police area in which the premises are situated.
- 17. 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.

18. 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.
19. 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.
20. 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**

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

### **Recommendation**

17. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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### **List of Background Papers**