

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE

9th 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 Yew Tree, Hockley Lane, Netherton.

2.0 BACKGROUND

- 2.1 On the 17th June 2005, an application was received from John Gaunt & Partners in respect of Yew Tree, Hockley Lane, Netherton 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 (£250.00)
- (3) Plan of the premises
- (4) Consent of the proposed Designated Premises Supervisor
- (5) Consent of the current licensee
- (6) AWP Permit
- (7) Public Entertainments Licence

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

To permit regulated entertainment comprising: live music and amplified voice, recorded music by juke box and music systems, comperes for functions and quizzes, indoor pub games comprising a sporting event in the presence of an audience, exhibition of a film principally video entertainment.

To extend the sale of alcohol Friday/Saturday 11.00 – 00.00.

To permit the premises to open for licensable activities to show the broadcast of televised sporting events outside normal operating hours, with such times for this purpose to be confirmed upon 14 days notice in writing to the police before the premises intend to open.

To permit provision of refreshment after 23.00

To remove all embedded restrictions under Licensing Act 1964, Children & Young Persons Act 1933, Cinematograph (Safety) Regulations 1955 and Sporting Events Act 1985.

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

2.5 Representations have been received from residents. Such objections are attached as Appendix 2.

3.0 PROPOSAL

3.1 That the Sub-Committee consider the application made by John Gaunt & Partners in respect of Yew Tree, Hockley Lane, Netherton 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 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.

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 P. ...

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DIRECTOR OF LAW AND PROPERTY

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