

**Licensing Sub-Committee 3 – 20<sup>th</sup> November 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 Spills Meadow, 53 Kent Street, Upper Gornal, Dudley, West Midlands.

**Background**

- 2 On the 23rd August, 2005, an application was received, in respect of The Spills Meadow, 53, Kent Street, Upper Gornal, Dudley, West Midlands, for the grant of a premises licence, that licence was issued on the 19<sup>th</sup> September 2005 for the following days and times:

Sale of Alcohol and Regulated Entertainment (recorded music/dance/film/indoor sporting events/performance of dance/performance of live music/making music)

Monday – Saturday inc 10.00 - 23.00  
Sunday 12.00 - 22.30

Late Night Refreshment

Non-standard timings.

(When hours for sale of alcohol are extended these hours are also extended)

To permit the sale of alcohol and such regulated entertainment as authorised Until 23.00 on Sundays at Bank Holiday Weekends, Christmas Eve and Boxing Day. New Years Eve 10.00 to New Years Day Terminal Hour as proposed.

To permit the premises to open for licensable activities to show the broadcast of Televised 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 intended to open, such notification to include the opening times and the sporting event which is to be shown with a right of the police veto within 7 days.

3. That licence was subsequently transferred on the 28<sup>th</sup> November 2005 and varied in accordance with drawing number 3670 dated September 2004 on the 1<sup>st</sup> March 2007. That licences was then further transferred on the 17<sup>th</sup> July 2007 and then again on the 24<sup>th</sup> August 2007.
4. On the 13<sup>th</sup> September 2007, an application for variation of the premises licence was received as follows:  
  
To extend the licensable hours for sale of alcohol and regulated entertainment (recorded music/dance/film/indoor sporting event/performance of dance/performance of live music/making music) late night refreshment.  
  
Friday & Saturday 10.00 until 00.30  
Sunday 12.00 until 23.30  
  
A copy of that application is attached to this report as appendix 1.
- 5 Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
- 6 Representations have been received from the Directorate of the Urban Environment and are attached to this report as Appendix 2.
- 7 The current licence holder is Marston's PLC and the current designated premises supervisor is Julie Toogood.
- 8 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**

- 9 There are no financial implications.

### **Law**

- 10 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.
- 11 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.
- 12 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.
- 13 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.
- 14 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).
- 15 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:-

- that any variation made ought not to have been made, or
- 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**

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

## **0Recommendation**

19 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