

AGENDA ITEM NO. 5

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE 4

31st OCTOBER 2005

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 Cross Hotel, High Street, Kingswinford, West Midlands.

BACKGROUND

- 2 On the 15th September 2005, an application was received from Spirit Group Limited, in respect of The Cross, High Street, Kingswinford, West Midlands, to vary a premises licence. The application for variation of licence is attached to this report at Appendix 1.
- 3 The application had the following requisite certified copies of documents enclosed:-
 - Relevant Justices On Licence
 - Correct Fee (£190.00)
 - Plan of the premises
 - Consent of the proposed Designated Premises Supervisor
 - Consent of the current licensee.
- 4 The application to vary the premises licence is as follows:

To allow sale of alcohol, and provision of regulated entertainment:

Live music/recorded music/anything similar in description to that falling within live music/recorded music/performance of dance/dance:

Mon – Wed 10.00 – 00.00
Thurs - Sat 10.00 – 01.00
Sun 10.00 – 00.00

To allow the provision of late night refreshment

Mon – Wed 23.00 – 01.00
Thurs – Sat 23.00 – 02.00
Sun 23.00 – 01.00

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.

On the 5th August, 2005, these premises applied to convert their licence which was granted on the 26th September, 2005.

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 have been served on the relevant authorities has been received.
- 6 Representations have been received from local residents and are attached to this report as appendix 2.
- 7 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.

PROPOSAL

- 8 That the Sub-Committee consider the application made by Spirit Group Limited, in respect of The Cross, High Street, Kingswinford, West Midlands, to vary the premises licence.

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.

RECOMMENDATION

17 That the Sub-Committee determine the application.

BACKGROUND PAPERS

18 None.

John P. ...

.....
DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs J Elliott - Ext: 5377