

**Licensing Sub Committee 4 – 5<sup>th</sup> June 2007**

**Report of the Director of Law and Property**

**Application to Vary a Premises Licence**

**Purpose of Report**

1. To consider the application for variation of the premises licence in respect of The Castle, 253 Castle Street, Dudley, West Midlands.

**Background**

2. On the 13th April 2007, an application was received from Flint, Bishop Solicitors, on behalf of Mr A Fresco (holder of the premises licence), in respect of The Castle, 253 Castle Street, Dudley to vary a premises licence. The current designated premises supervisor of the premises is a Mr S Banks. The application for variation of licence is attached to this report at Appendix 1.
3. The application had the following documents enclosed:-
  - Correct Fee (£190.00)
  - Plan of the premises
4. On the 27th September, 2005, an application for a new premises licence was granted, that licence was subsequently transferred on the 23<sup>rd</sup> November 2005, 16<sup>th</sup> March 2006, 26<sup>th</sup> July 2006, and the 12<sup>th</sup> March 2007 and issued for the following days and times:

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

Monday – Thursday	10.00 – 23.00
Friday & Saturday	10.00 – 00.00
Sundays	12.00 – 22.30

Provision of Late night refreshments

Friday & Saturday	23.00 – 00.00
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To permit the sale of alcohol and such related entertainment as authorised until 00.00 on Sunday at Bank Holiday weekends, Christmas Eve and Boxing Day, New Years Eve 10.00 to New Years Day Terminal hour as proposed.

An application to vary that licence has now been received as follows:

To allow sale of alcohol and regulated entertainment (recorded music/dancing/films/indoor sporting event/performance of dance/performance of live music/making music)

Monday - Saturday	10.00 – 03.00
Sunday	12.00 – 03.00

Provision of Late night refreshment

Monday - Sunday	23.00 – 03.00
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On the occasion the clocks move forward at British Summer Time the terminal hour will vary accordingly.

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. 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**

8. There are no financial implications.

## **Law**

9. 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.
10. 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.
11. 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.
  12. 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.
  13. 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).
  14. 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 it 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**

15. This report complies with the Council's policy on equal opportunities.
16. The licensing of private hire and hackney carriage vehicles will impact on children and young people through their transportation in licensed vehicles.
17. There has been no consultation or involvement of children and young people in developing these proposals.

## **Recommendations**

18. That the Sub-Committee determine the application.

John Pye

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DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs. J. Elliott 5377  
Telephone: 01384 815377  
Email: [janetelliott@dudley.gov.uk](mailto:janetelliott@dudley.gov.uk)

## **List of Background Papers**