

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE 4

28TH FEBRUARY 2006

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 White Swan, Holland Street, Dudley, West Midlands.

BACKGROUND

- 2 On the 8th November, 2005, an application was received from Ridgeway Licensing Services, in respect of The White Swan, Holland Street, Dudley, 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 documents enclosed:-
 - Correct Fee (£190.00)
 - Plan of the premises
- 4 On the 19th September, 2005, an application to convert the licence was granted. A further application was then received to vary this licence, which is as follows:

To allow sale of alcohol

Mon – Thurs	10.00 - 00.00
Fri & Sat	10.00 - 01.00
Sun	10.00 - 00.00

One extra hour after the finish times shown on the following days:-

New Years Day, Valentine's Day, Thursday before Good Friday, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Sunday and Monday of all Bank Holiday weekends.

St Patrick's Day, St George's Day, St David's Day, St Andrew's Day.

23rd – 30th December inc

New Years Eve – 36 hours as existing.

To allow regulated entertainments (Live Music/Recorded Music/Dance/Provision of facilities for making music/dance)

Mon – Thurs	19.00 – 23.00
Fri & Sat	19.00 – 00.00
Sun	19.00 – 23.00

(Films/indoor sporting events)

Mon – Thurs	10.00 – 00.00
Fri & Sat	10.00 – 01.00
Sun	10.00 – 00.00

Provision of Late night refreshment:

Mon –Thurs	23.00 – 00.00
Fri & Sat	23.00 – 01.00
Sun	23.00 – 00.00

- 5 Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
- 6 Representations were received from local residents and are attached to this report as appendix 2.
- 7 This matter was due to be considered by the Committee on the 19th December, 2005. The Committee resolved that the application be dismissed due to the non-attendance of the applicant or the applicant's representative.
- 8 An appeal was lodged with the Magistrates Court against this decision. Following representations by the applicant the Assistant Director of Legal and Democratic Services in consultation with the Chairman, decided that it was not in the public interest for this matter to be dealt with by the Court, but should be put back before the Committee for consideration.
- 9 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

- 10 That the Sub-Committee consider the application made by Ridgeway Licensing Services, in respect of The White Swan, Holland Street, Dudley, West Midlands, to vary the premises licence.

FINANCE

- 11 There are no financial implications.

LAW

- 12 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.
- 13 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.
- 14 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.
- 15 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.
- 16 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).
- 17 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.
- 18 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

19 This report complies with the Council's policy on equal opportunities.

RECOMMENDATION

20 That the Sub-Committee determine the application.

BACKGROUND PAPERS

21 None.

Handwritten signature in black ink, appearing to read "John P. ...".

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DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs J Elliott - Ext: 5377