

**Licensing Sub-Committee 2**

**12<sup>th</sup> September 2006**

**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 British Queen, 55 Parkeshall Road, Woodsetton, Dudley, West Midlands.

**Background**

2. On the 19<sup>th</sup> September 2005, an application to convert the existing licence was granted.
3. On the 16<sup>th</sup> November 2005, an application was received from Ridgeway Licensing Services in respect of The British Queen, 55 Parkeshall Road, Woodsetton, Dudley, West Midlands, to vary a premises licence.
4. A Committee meeting was held on 11<sup>th</sup> January 2006 and following mediation between all parties it was resolved that the licence be granted as follows:-

To allow sale of alcohol:-

Monday to Thursday	10.00 - 00.00
Friday and Saturday	1.00 - 01.00
Sunday	10.00 - 00.00

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

New Year's 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, 23<sup>rd</sup> to 30<sup>th</sup> December inc, New Year's Eve - 36 hours as existing.

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

Monday to Thursday	19.00 - 23.00
Friday and Saturday	19.00 - 00.00
Sunday	19.00 - 23.00

(Films/indoor sporting events)

Monday to Thursday	10.00 - 00.00
Friday and Saturday	10.00 - 01.00
Sunday	10.00 - 00.00

Provision of late night refreshment

Monday to Thursday	23.00 - 00.00
Friday and Saturday	23.00 - 01.00
Sunday	23.00 - 00.00

5. On the 22<sup>nd</sup> June, 2006 a complaint was received by the Licensing Office in respect of regulated entertainment being held on Sunday afternoons without a licence at the British Queen Public House.
6. Mr. Dan Mills, Licensing Enforcement Officer visited the British Queen on the evening of the 27<sup>th</sup> June, 2006 and observed, displayed in the entrance to the premises, an advertisement for live entertainment on the next three Sundays to commence at 2.00 p.m.
7. Mr. Mills spoke to the Designated Premises Supervisor, Mrs. Cowan and requested that she produce her summary of the premises licence. He then informed Mrs. Cowan of the complaint and she admitted that live entertainment had taken place at the premises on Sunday afternoons.
8. Mrs. Cowan stated that following the agreed grant of the premises licence by mediation in respect of the British Queen, she approached the Barrister who was representing the Brewery and requested that he apply for a variation to include Sunday afternoons. She also stated that she believed the Brewery had dealt with the request.
9. Mr. Mills advised Mrs. Cowan to cease forthwith her entertainments on Sunday afternoons as these were an unlicensed activity for which she could be prosecuted.
10. Mrs. Cowan stated that she would cancel the entertainment immediately and take the matter up with the Brewery.

11. The above facts were recorded as a file note dated 27<sup>th</sup> June, 2006.
12. A copy of the current licence together with the conditions of licence are attached to this report as Appendix 1.
13. On the 5<sup>th</sup> July 2006 an application was received from Fraser Brown Solicitors, in respect of the British Queen, 55 Parkeshall Road, Woodsetton, Dudley, West Midlands to vary a premises licence. The application is attached to this report as Appendix 2.
14. The application had the following documents enclosed:-

- Correct fee (£100.00)

15. The application to vary the premises licence in respect of the British Queen is as follows:-

To allow regulated entertainments  
(Live music/recorded music/performances of dance/provision of facilities for making music/provision of facilities for dancing).

Monday to Sunday            10.00 – 00.00

If applicable, an additional hour to the standard and non-standard times on the day when British summertime commences. From the standard start timing on 31<sup>st</sup> December to the standard finish timing on 1<sup>st</sup> January.

In the event of the transmission of any international sporting event, which falls outside the standard hours, timing to commence 1 hour before the start of the event and ending 1 hour after the end of the event.

16. To also amend the conditions, restrictions and limitations applicable to the licensable activities as follows:-

To remove any conditions, restrictions or limitations attached to the premises licence on conversion under the provisions of Schedule 8 paragraph 6 (6) of the Licensing Act 2003.

To remove the conditions for drinking up time.

To remove any conditions, restrictions or limitations attached to the premises licence on conversion under the provision of Schedule 6 paragraph 6 (8) of the Licensing Act 2003 other than the permitted hours for the sale of alcohol as varied by this application.

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

18. Directorate of Urban Environment made comments, which are attached as Appendix 3.
19. We have received a letter of objection from a local residents concerning noise and nuisance, a copy of that letter has been sent to the Committee members and the applicant in accordance with the Licensing Act 2003.
20. 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

21. There are no financial implications.

### Law

22. 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.
23. 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.
24. 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.
25. 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.
  26. 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).
  27. 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.
  28. 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.

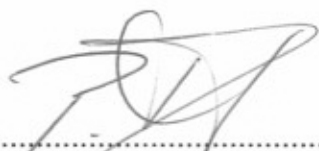
They have the right of appeal to the Magistrates' Court.

### **Equality Impact**

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

**Recommendation**

32. That the Sub-Committee determine the application.



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DIRECTOR OF LAW AND PROPERTY

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**List of Background Papers**

None