

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE

11TH JANUARY, 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 Royal Oak, Manor Lane, Halesowen.

BACKGROUND

2. On the 9th May 2005, an application was received from Poppleston & Allen Licensing Solicitors on behalf of Mitchells & Butlers Plc in respect of the Royal Oak, Manor Lane, Halesowen to convert an existing licence into a premises licence and to vary the premises licence simultaneously.

3. The application had the following requisite certified copies of documents enclosed:-

- (1) Relevant Justices on Licence.
- (2) Correct Fee (£395.00)
- (3) Plan of the premises
- (4) Consent of the proposed Designated Premises Supervisor
- (5) Consent of the current licensee

4. The application to vary the premises licence was as follows:
To extend hours for the sale of alcohol, hot drink and/or food and permit the categories of regulated entertainment to operate:

Monday – Sunday 10.00 – 00.00.

An additional hour was requested in addition to the above on the following dates:

1 st January	Friday prior to May bank Holiday
Valentines Night	Saturday prior to May Bank Holiday
Burns Night	Sunday prior to May bank Holiday
1 st March (St David's Day)	August Bank Holiday
17 th March (St Patrick's Day)	Friday prior to August bank Holiday
Good Friday	Saturday prior to August Bank Holiday
Easter Saturday	Halloween
Easter Sunday	Boxing Day
Easter Monday	27 th December

An additional two hours are requested on Christmas Eve.

5. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities was received.
6. No representations were made by the responsible authorities.
7. Objections were received from local residents.
8. On the 8th June 2005, Carl Philips, Licensing Section, contacted Poppleston & Allen for mediation purposes in an effort to see if the parties could reach agreement with regard to the representations made.
9. This matter was due to be considered by the Committee on the 4th July, 2005.
10. On the 15th June, 2005, the application for extension of hours was withdrawn.
11. The conversion of the premises licence was, therefore, granted. A copy of that licence is attached as Appendix 1.
12. On the 11th November, 2005, Poppleton Allen, Solicitors, made a further application to vary the premises licence, a copy of that application is attached as Appendix 2.

To extend the hours for the sale of alcohol and regulated entertainments on the following days:-

10.00 - 00.00 Thursday, Friday and Saturday

11.00 - 23.00 on Sundays

1st January 1 hr, Valentines Night 1 hr, Burns Night 1 hr, 1st March (St Davids) 1 hr, 17th March (St Patricks) 1 hr, Good Friday 1 hr, Easter Saturday 1 hr, Easter Sunday 1 hr, Easter Monday 1 hr, May Bank Holiday (1st Friday Prior 1 hr, May Bank Holiday (1st) Saturday Prior 1 hr, May Bank Holiday (1st) Sunday prior 1 hr, May Bank Holiday (1st) Bank Holiday Monday 1 hr, May Bank Holiday (2nd) Friday Prior 1 hr, May Bank Holiday (2nd) Saturday Prior 1 hr, May Bank Holiday (2nd) Sunday prior 1 hr, May Bank Holiday (2nd) Bank Holiday Monday 1 hr, August Bank Holiday Friday Prior 1 hr, August Bank Holiday Sat Prior 1 hr, August Bank Holiday Sunday Prior 1 hr, August Bank Holiday Monday 1 hr, Halloween 1 hr, Christmas Eve 2 hrs, Boxing Day 1 hr, 27th December 1 hr, 28th December 1hr, 30th December 1 hr.

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

14. Representations have been received from local residents and are attached to this report as Appendix 3.

PROPOSAL

15. That the Sub-Committee consider the application made by Poppleston & Allen Licensing Solicitors on behalf of Mitchells & Butlers Plc in respect of the Royal Oak, Manor Lane, Halesowen, to vary the premises licence.

FINANCE

16. There are no financial implications.

LAW

17. 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.
18. Pursuant to Section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
- (a) 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
 - (b) 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.
 - (c) The steps are:-
 - (i) to modify the conditions of licence;
 - (ii) to reject the whole or part of the application.
19. 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:-
- (a) the applicant;
 - (b) any person who made relevant representations in respect of the application and
 - (c) the Chief Officer of Police for the police area in which the premises are situated.

20. 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.
21. 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).
22. 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.
23. Where a person who made relevant representations to the application desires to contend:-
 - (a) that any variation made ought not to have been made, or
 - (b) 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

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

RECOMMENDATION

25. That the Sub-Committee determine the application.

BACKGROUND PAPERS

26. None.

John P... ..

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DIRECTOR OF LAW AND PROPERTY

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