

Dudley Metropolitan Borough

Licensing Sub-Committee – 9th May, 2006

Report Of The Director Of Law And Property

Application for a Premises Licence

Purpose of Report

- 1 To consider the application for the grant of a premises licence in respect of The Jade Chinese Takeaway, 290 Long Lane, Halesowen, West Midlands.

Background

- 2 On the 8th August 2005, an application was received from Al Tran in respect of the premises known as The Jade Chinese Takeaway, 290 Long Lane, Halesowen, West Midlands, for the grant of a premises licence. The application is attached to this report at Appendix 1.

- 3 The application had the following documents enclosed:-

- Correct Fee (£100.00)
- Plan of the premises

- 4 The application for a premises licence is as follows:-

To allow the provision of late night refreshment as follows:-

Monday	17.00 - 24.00
Wednesday - Sunday (inc)	17.00 - 24.00

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

This application was granted on the 19th September 2005 following the issue of that licence it came to the attention of the Licensing Office that the prescribed public notice had not been advertised, therefore the licence was subsequently cancelled.

On the 16th March 2006, a copy of the prescribed public notice was received by the Licensing Office.

- 5 Representations have been received from local residents and are attached to this report as Appendix 2.

6 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

7 That the Sub-Committee consider the application made by Al Tran, in respect of the premises known as The Jade Chinese Takeaway, 290 Long Lane, Halesowen, West Midlands, for the grant of a premises licence.

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 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

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

Recommendation

- 18 That the Sub-Committee determine the application.

John Poyce

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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers

None