

DUDLEY METROPOLITAN BOROUGH

LICENSING SUB-COMMITTEE 2

21ST 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 Park Tavern, Cot Lane, Kingswinford.

BACKGROUND

2. On the 27th May 2005, an application was received from The Spirit Group in respect of Park Tavern, Kingswinford 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:-
 - Relevant Justices on Licence
 - Correct Fee (£395.00)
 - Plan of the premises
 - Consent of the proposed Designated Premises Supervisor
 - Consent of the current licensee
4. The application to vary the premises licence was as follows:

To extend the hours for regulated entertainment (live and recorded music) and the sale of alcohol:

Sunday – Wednesday 10.00 – 00.00

Thursday – Saturday 10.00 – 01.00

To provide late night refreshment:

Sunday – Wednesday 23.00 – 01.00

Thursday – Saturday 23.00 – 02.00

5. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
6. On 4th July, the Spirit Group were contacted as they failed to advertise this application in the correct manner. Therefore, the period for objections was extended to July 29th 2005.
7. Representations were received from residents. .
8. The matter was due to be considered by the Committee on the 10th August, 2005.
9. On the 8th August 2005, the Spirit Group withdrew the application for variation and therefore the application was simply for the conversion of the existing licence.
10. That licence was issued on the 14th November 2005. A copy is attached to this report as Appendix 1.
11. On the 6th January 2006 the Spirit Group in respect of the Park Tavern, Kingswinford, made application to vary the premises licence as follows:-

To extend the hours for supply of alcohol and regulated entertainment (live music, recorded music, performance of dance, provision of facilities for entertainment similar to provision for making music/dance)

Sunday – Wednesday 10.00 – 00.00
Thursday – Saturday 10.00 – 01.00

Late night refreshment

Sunday – Wednesday 23.00 – 01.00
Thursday – Saturday 23.00 – 02.00

For statutory bank holiday weekend periods (Friday, Saturday, Sunday and Monday) and for the Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour beyond these times. On occasions of local, national or international significance or for charitable events, limited to twelve per year, the finish time will be extended by one hour, with fourteen days notice and agreement with the police.

A copy of that application is attached as Appendix 2.

12. Representation have been received from the Director of the Urban Environment and are attached to the report as Appendix 3.
13. Representations were also received from local residents and are attached to this report as Appendix 4.

PROPOSAL

14. That the Sub-Committee consider the application made by Spirit Group in respect of Park Tavern, Cot Lane, Kingswinford to vary the premises licence.

FINANCE

15. There are no financial implications.

LAW

16. 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.
17. 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:-
 - (1) to modify the conditions of licence;
 - (2) to reject the whole or part of the application.
18. 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.
19. 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.
20. 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).

21. 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.
22. 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

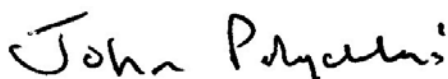
23. This report complies with the Council's policy on equal opportunities.

RECOMMENDATION

24. That the Sub-Committee determine the application.

BACKGROUND PAPERS

25. None.



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DIRECTOR OF LAW AND PROPERTY

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