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**APPLICATION FOR THE VARIATION OF A PREMISES LICENCE: THE ROYAL OAK – 2
CROSS HILLS, KIPPAX, LS25 7JP**

On the 25th June 2007 the Licensing Sub-Committee heard an application brought by Spirit Group Ltd, Jubilee House, Second Avenue, Burton-Upon-Trent, DE14 2WF for the variation of a premises licence in respect of the premises known as The Royal Oak, 2 Cross Hills, Kippax, LS25 7JP.

The applicant sought the following:

To REMOVE the condition on the existing premises licence 'Patrons shall not be allowed to use the beer garden, or any external area after 23:00 hours'

And REPLACE IT with to 'No consumption of food or alcohol in the beer garden, or any external area after 23:00 hours'.

Further to an agreement with West Yorkshire Police (WYP), the applicant then proposed to amend the condition to 'No consumption of food or alcohol and no licensable activities will be allowed in the beer garden or any external area after 23:00 hours'.

The hours of licensable activities were proposed to remain as granted in the premises licence.

This letter represents the formal decision of the Sub-Committee in respect of the application.

Preliminary Procedural Issues

The Sub-Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made. The Sub-Committee agreed that the procedure for the hearing would not be varied. The Sub-Committee then decided to exclude the public from that part of the meeting where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing that Sub-Committee had considered the Licensing Officers report which included a copy of the application as submitted. The report also included written representations received from local residents Mr. D. Draper and Ms. M. Smith.

The Sub-Committee then went on to consider the application

The Hearing

The following interested parties attended the hearing:

- Ms. Kerry Ann Lewis, premises manager
- Ms. Irene Stephenson, Area Manager 'Spirit Group'

In determining the application the Sub-Committee took into account the written submissions from the responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the parties prior to the hearing.

After considering the evidence and submissions the Sub-Committee would need to satisfy itself that granting the variation would promote the licensing objectives.

In reaching its decision, the Sub-Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the council's own Licensing Policy.

In particular the Sub-Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 2 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety.

The Sub-Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub-Committee took the view that these paragraphs had a bearing on the applications:

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

As there were no objectors or responsible authorities present the Sub-Committee then considered the representations made on behalf of the applicant by Ms. Stephenson from 'The Spirit Group'. Ms. Stephenson had agreed to represent the applicant in the absence of her legal representative. The Sub-Committee noted that the premises was a village pub and, whilst the premises licence allowed the premises to stay open until 01:00 hours Sunday to Wednesday and 02:00 hours on a Saturday, the premises usually stopped serving alcohol at 23:00 hours and closed at 23:30 hours. In anticipation of the implementation of the smoking ban the applicant sought to allocate the 'patio' area of the beer garden as a smoking area. The premises manager indicated on the map provided in the report the area which the patio covered and advised that there were approximately 5 tables in this area with only umbrellas

for shelter. The applicant believed that, taking into consideration the number of smokers and the number of patrons those who use the premises, that this area was sufficient to deal with demand. The Spirit Group had also ensured that all staff had received training on the strict line the company was taking on the smoking ban. Staff would police smoking areas at regular intervals to ensure that no alcohol was consumed in the area outside of what the licence permitted.

In response to the objections which had been received in relation to noise problems at the premises the Sub-Committee was advised that the juke box at the premises was played on repeat during the day until 16:00 hours and patrons were then required to pay for the juke box after this time. The windows and external doors to the premises were closed at 21:00 hours to avoid and nuisance to the neighbouring properties. There had been incidents where patrons had played music in their car in the car park when they were sat in the beer garden. In these instances patrons were always asked to turn off the music or to leave if they did not adhere to the request. The Sub-Committee also noted that the car park was also frequently used by the customers of other premises in the area such as the takeaway and shops.

The Decision

The Sub-Committee discussed the application in a closed session and received legal advice on the options open to them with regard to the application. Members noted the written submissions objecting to the variation. The representations made by the applicant in support of the application were also taken into consideration by the Sub-Committee.

The Sub-Committee particularly took into consideration the fact that the application had been made as an attempt by the Applicant to control contain smoked on the premises to avoid nuisance to local residents and that the outside areas would be regularly monitored by staff to ensure adherence to the proposed conditions. After careful consideration the decision of the Sub-Committee was to grant the variation in the following terms:

The condition attached to the Premise Licence which states 'Patrons should not be allowed to use the beer garden or external drinking area after 23:00' be removed and replaced with:

'No consumption of food or alcohol and no licensable activities will be allowed in the beer garden or any external area after 23:00, and patrons shall not be allowed to use any external area after 23:00 for any purpose, except the area designated as 'patio' and marked as such by the applicant in the plan which shall not be used for any licensable purpose after 01:00 hours Sunday to Wednesday and 02:00 Thursday to Saturday.'

In making its decision the Sub-Committee was satisfied that the grant of the licence with the imposed conditions was in line with the Council's own Licensing Policy and the provisions of the Licensing Act 2003. The Sub-Committee particularly noted that the premises manager had made steps toward dealing with the noise from the car park area and urged the applicant to maintain this.

Yours sincerely

Helen Gray
Governance Services Officer