



DERBY CITY COUNCIL

**GENERAL LICENSING COMMITTEE
26 JULY 2006**

Report of the Director of Corporate & Adult Social Services

**OUTCOME OF APPEALS –
THE BEDFORD ARMS, 2 BEDFORD STREET, DERBY
THE ASTERDALE CLUB, DERBY**

RECOMMENDATION

1. To note the outcome of appeals made by Maria Mawson in relation to The Bedford Arms, 2 Bedford Street, Derby and Punch Taverns plc in relation to the Asterdale Club, Derby in respect of licence conditions imposed by the General Licensing Sub-Committee.

SUPPORTING INFORMATION

Mrs Maria Mawson

- 2.1 On 14 October 2006 the General Licensing Sub-Committee granted a New Premises Licence in respect of The Bedford Arms, 2 Bedford Street, Derby to the applicant Mark Holt.
- 2.2 At a first hearing on 8 December 2005 at Southern Derbyshire Magistrates' Court the Court advised the Council that an appeal had been lodged in relation to the terms of the Licence. The Council had not been served with the Summons on Complaint prior to the first hearing and the matter was adjourned to 26 January 2006 to allow the Council the opportunity to review the relevant paperwork.
- 2.3 The appeal was lodged by Maria Mawson. The Summons stated that Mrs Mawson was "an applicant for a variation of the terms of a Premises Licence relating to the Bedford Arms". This was in fact incorrect. The application considered by the General Licensing Sub-Committee was for a new Premises Licence in view of the fact that an application for the conversion of the old Justices' Licence had not been made before 6th August 2005. In addition, the applicant was Mark Holt and not Mrs Mawson.
- 2.4 Paragraph 2 of Part 1 of Schedule 5 to the Licensing Act 2003 provides that where a licensing authority grants an application for a Premises Licence or imposes conditions only the holder of the licence or a person who made a relevant representation (i.e. an objector) may appeal. Consequently, Mrs Mawson did not have the right to appeal the General Licensing Sub-Committee's decision.

- 2.5 In addition to the fact that Mrs Mawson had no right of appeal, Paragraph 9 of Part 1 of Schedule 5 to the Licensing Act 2003 makes it clear that an appeal must be made within 21 days beginning with the day on which the appellant was notified of the decision appealed against.
- 2.6 In this particular case the written Decision Notice was handed to Mark Holt, the applicant, at the hearing on 14 October 2005 which means that an appeal would have to be lodged before 3rd November 2005. Committee should note that Mrs Mawson's appeal was lodged at Court on 8th November after this deadline. The Court does not have the power to deal with an application lodged out of time.
- 2.7 Based on the above information the Council asked the Court to dismiss the appeal at the court hearing on 26 January 2006. The Council did not make an application for costs on the basis that Mrs Mawson had lodged her appeal following advice from her solicitors. The Court dismissed the appeal with no order for costs.

Punch Taverns plc

- 2.1 On 3 October 2006 the General Licensing Sub-Committee granted a variation of a Premises Licence in respect of the Asterdale Club, Derby to Punch Taverns plc. The decision was appealed against in relation to the conditions imposed on the licence.
- 2.2 At the first hearing on 1 December 2005 the Council's solicitor explained to the Court that the Council had not been served with the Summons on Complaint and had only been made aware of the proceedings the previous day. The Council were not therefore in a position to proceed at that time and the matter was adjourned to 12 January 2006.
- 2.3 On 9 January 2006 the solicitors representing the appellant confirmed to the Council that their client was withdrawing their appeal.
- 2.4 At the hearing on 12 January the appellant withdrew its appeal and the Council made an application for costs. The Court decided to adjourn the consideration of costs in order to give the appellant the opportunity to attend and make representations. The costs hearing was listed for 14 February 2006.
- 2.5 Prior to the costs hearing the Council agreed to accept £300 from the appellant in full and final settlement of its claim for costs payable within 28 days.
- 2.6 On 14 February 2006 the Court ordered the appellant to pay the costs of £300 to the Council.

For more information contact:	Diane Whittaker (25)5454 e-mail diane.whittaker@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications

IMPLICATIONS

Financial

1. The costs of the hearing and appearance fee in relation to Mrs Mawson's appeal to be met from existing budgets.

Legal

2. As set out in the report.

Personnel

3. None.

Equalities impact

4. None.

Corporate priorities

5. The Council's Statement of Licensing Policy used by the General Licensing Sub-Committee in determining applications contribute to the council's objectives of protecting and supporting people and a healthy environment.