

Licensing Sub-Committee

Tuesday, 23rd February, 2021 at 10.00am

On Microsoft Teams

[Click this link to join the meeting](#)

Agenda - Public Session

(Meeting open to the public and press)

1. Chair Announcement

Welcome to this virtual meeting. This is a formal Council Sub-Committee. The public proceedings will take place live on the Internet. The public proceedings will be recorded for future viewing.

It will assist with the conduct of business if participants speak only when invited. I shall adjourn the meeting if necessary if protocol is not observed.

Members of the public are welcome to view the proceedings but should not make contributions until they are invited in line with our procedure.

All Members of the Sub-Committee have received the reports and associated documents in advance and had the opportunity to read them. The public reports are published on the Internet.

All participants should mute their microphones and video feed when they are not speaking.

Please remember to unmute your microphone and switch on your video feed when it is your turn to speak. Speak clearly and slowly into your microphone.

Anyone wishing to speak should indicate using the 'raise your hand' button on Microsoft Teams. I will invite people to speak at the appropriate time.

If you do not have the hand button, please type your request to speak in the chat function. Please note that the 'chat' function is monitored and has a full audit trail and anyone found to be misusing this function will be removed from the meeting.



Please note that when the Sub-Committee adjourns to make a decision, all participants except our Legal Advisor and Democratic Support Officers will be asked to leave the meeting. Our decision and the reasons for it will be communicated to all parties as soon as possible after the hearing.

Finally, I ask for everyone's patience with the use of the technology. I apologise in advance if we experience any unforeseen difficulties which we shall try to resolve expediently.

I shall now follow the agenda items.

2. Apologies for absence.
3. To report the appointment of any substitute Members for this meeting of the Sub-Committee.
4. To receive any declarations of interest under the Members' Code of Conduct.
5. To confirm and sign the minutes of the meetings held on 3rd November, 2020 as a correct record.

The following application is to be considered under the provisions of the Licensing Act 2003:-

6. Application for Grant of a New Premises Licence – Unit 10 Castle Mill Birmingham New Road, Dudley (Pages 1 to 5)
7. To consider any questions from Members to the Chair where two clear days notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).



Chief Executive

Dated: 15th February, 2021

Distribution:

Councillor A Taylor (Chair)
Councillors K Finch and S Greenaway



Please note:

- This meeting will be held virtually by using Microsoft Teams. The meeting will be held live via the Internet link.
- This is a formal Council Sub-Committee and it will assist the conduct of business if participants speak only when invited by the Chair.
- The Chair reserves the right to adjourn the meeting, as necessary, if there is any disruption or technical issues.
- All participants should mute their microphones and video feed when they are not speaking.
- Please remember to unmute your microphone and switch on your video feed when it is your turn to speak. Speak clearly and slowly into your microphone.
- Members of the public can view the proceedings by clicking on the link provided on the agenda.
- The public proceedings may be recorded by the Council to view on our website. Recording/reporting is only permitted during the public session of the meeting.
- Information about the Council and our meetings can be viewed on the website www.dudley.gov.uk
- Any agendas containing reports with exempt information should be treated as private and confidential. It is your responsibility to ensure that information containing private and personal data is kept safe and secure at all times. Confidential papers should be securely disposed of. If you choose to retain the documents you should ensure that the information is securely stored and destroyed within six months.
- Elected Members can submit apologies by contacting Democratic Services: Telephone 01384 815238 or E-mail Democratic.Services@dudley.gov.uk



**Minutes of Licensing Sub-Committee 3
Tuesday, 3rd November, 2020 at 10.00 am
On Microsoft Teams**

Present:

Councillor A Taylor (Chair)
Councillors K Finch and P Miller

Officers:-

B Hughes – Assistant Team Manager, L Rouse – Senior Licensing Clerk (Directorate of Public Realm), P Miles, Senior Environmental Health Officer (Directorate of Public Health and Wellbeing), R Clark – Principal Solicitor, K Griffiths – Democratic Services Officer and G Gray – Assistant Democratic Services Officer (Directorate of Finance and Legal).

1. **Apology of Absence**

An apology for absence from the meeting was submitted on behalf of Councillor S Greenaway.

2. **Appointment of Substitute Member**

It was reported that Councillor P Miller had been appointed as substitute Member for Councillor S Greenaway for this meeting of the Sub-Committee only.

3. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

4. **Minutes**

Resolved

That the minutes of the meeting held on 10th March, 2020, be approved as a correct record and signed.

5. **Application for Grant of a New Premises Licence – The Queens Cross (formerly known as The Earl of Dudley), 135 Wellington Road, Dudley**

A report of the Acting Director of Public Realm was submitted on an application for the grant of a new premises licence in respect of the premises known as The Queens Cross (formerly known as The Earl of Dudley), 135 Wellington Road, Dudley.

The following were in attendance at the meeting:-

Mrs F Tennant – Applicant

Mr H Thomas, Harrison Clark Rickerby Solicitors – Representative of Mrs Tennant

Ms K Turley - West Midlands Police

Ms D Jenkins - West Midlands Police

Ms J Ball – Counsel for West Midlands Police

Councillor C Bayton – Objecting to the application on behalf of the Councillors for St James's Ward

The Chair welcomed everyone present to the meeting and outlined the procedure that would be followed.

The Senior Licensing Clerk presented the report on behalf of the Council.

Mr Thomas, the applicant's Solicitor requested an adjournment to discuss the application in private with Ms J Ball, Counsel for West Midlands Police. The Sub-Committee agreed and the meeting was adjourned at 10.08am and reconvened at 10.27am.

Ms J Ball indicated that during the adjournment, the applicant had agreed to the conditions set out in the operating schedule, together with conditions suggested by West Midlands Police, subject to a slight amendment to Condition No. 6 outlined in an e-mailed dated 6th October, 2020 from the Police, as set out below and in view of the agreement, the West Midlands Police had no objections to the application.

“The car park to the premises shall be barriered so that it can be closed and locked after the end of the licensing hours each day. The car park to be lit at all times after dark by good quality lighting during operational hours and thereafter shall be lit by motion sensors to ensure that it is adequately lit at all times”

The Senior Environmental Health Officer made representations referring to the historical noise nuisance relating to the premises and suggested conditions be imposed as set out in an e-mail dated 6th October, 2020, which had been circulated to all parties prior to the meeting. He indicated that should the conditions be agreed by the applicant, the sound limiting device could be calibrated to the appropriate level by officers of the Local Authority.

Councillor C Bayton, on behalf of St James's Ward Councillors, referred to the close proximity of residential homes to the public house. She indicated that during consideration of a previous application submitted on behalf of the establishment, Councillors had visited residential homes to establish their views in relation to the application received and it was clear by the number of concerns raised that the residents had concerns that historical issues in relation to noise nuisance would be repeated. It had been unfortunate that the Ward Councillors had not been able to carry out face to face consultation with residents upon receiving the current application due to the COVID-19 restrictions. She stated that discussions with West Midlands Police and the applicant in relation to the premises, had only occurred immediately prior to the application being considered by the Sub-Committee which did not show a commitment by the applicant as wanting to work collaboratively with appropriate parties to ensure the premises were operated successfully and in accordance with the licensing objectives.

The Assistant Team Manager indicated that a number of discussions had taken place prior to the application being submitted to the Sub-Committee with the applicant, Local Authority Officer and the West Midlands Police, which had highlighted a number of concerns, however, was satisfied that the concerns had been included in the conditions suggested by all parties and agreed by the applicant.

Mr Thomas then presented the case on behalf of the applicant, Mrs Tennant, and in doing so assured the Sub-Committee that there was no connection between the applicant and the former Premises Licence Holder (PLH). Mrs Tennant had thirty years' experience of working and successfully managing local establishments with no history of complaints being received in relation to the operation of former public houses. He indicated that the applicant was committed to working with the community, the Local Authority and the Police to ensure the premises were managed in line with the licensing objectives. Mrs Tennant had agreed to a compromise to the licensing hours of the establishment as requested by West Midlands Police and accepted all additional conditions put forward by all relevant agencies.

Mr Thomas referred to the request from West Midlands Police, which had also been agreed by the applicant, for a condition to be included initially permitting a time limited licence for a period of twelve months, which showed the applicant's commitment to working collaboratively with the Police and Local Authority as the cost of any further applications following the initial twelve month period would need to be covered by the applicant. In referring to the historic issues associated with the premises, Mr Thomas indicated that the applicant should not be penalised or held responsible for past issues, and be provided with the opportunity to operate the establishment in accordance with the licensing objectives. Should during the initial twelve month period, complaints be received, the Committee had a remedy in which not to allow any further applications and the applicant was fully aware of the consequences of breaching any of the licensing conditions.

In referring to the condition in relation to the lighting of the car park after dark and throughout the night, the applicant agreed to install a motion sensor light for use during non-licensing hours.

The applicant had decided to change the name of the premises from The Earl of Dudley to The Queens Cross to give the premises a new brand and hopefully give assurances that the premises would be operated as a family friendly establishment, different from how it had been managed previously. He indicated that conditions had been included in the operating schedule to control the noise aspect of the concerns raised and assured the Sub-Committee the applicant had no concern in addressing noise emanating from customers and requesting them to leave the public house if necessary. Mr Thomas confirmed that music would not be permitted outside of the premises and displaying prominent signage had already been agreed by the applicant and included in the operating schedule.

In concluding Mr Thomas indicated that Mrs Tenant had a personal connection with The Earl of Dudley in that she had met her husband at the premises. Mrs Tenant had children who would be supporting her in managing the premises and promoting the licensing objectives.

In responding to questions from the Senior Environmental Health Officer, Mr Thomas confirmed that there would be no entertainment permitted outside of the premises. Any noise nuisance issues on the car park would be monitored and controlled by the management of the establishment and the Police would be involved should customers frequently disregard the licensing objectives or should historic pressures and threatening behaviour by previous patrons materialise. It was established that concerns should be based on evidence and there had been no evidence to demonstrate that the business would not be managed successfully by the applicant given her unchallenged extensive knowledge and experience in the industry.

Following a question raised, Mr Thomas confirmed that although the former PLH owned the premises, it had been leased to the applicant and he assured the Sub-Committee that the former PLH would not be involved in the management or operation of the establishment and would not be residing at the premises. Following further concerns, the applicant agreed to a condition being included on the premises licence to ensure that the previous PLH would not have any involvement in the operation or management of the establishment.

All parties were given the opportunity to sum up their cases and the legal advisor to the Sub-Committee outlined the law relating to the determination of applications for the grant of a premises licence.

All parties then withdrew from the meeting to enable the Sub-Committee to determine the application, the decision of which would be conveyed to all parties after the meeting had concluded.

Resolved

That the application for a new premises licence in respect of the premises known as The Queens Cross (formerly known as The Earl of Dudley), 135 Wellington Road, Dudley, be granted for a period of twelve months, with the additional conditions as part of the premises licence:

1. The hours for the provision of licensable activities (supply of alcohol, regulated entertainment and late night refreshment (Friday and Saturday) shall be Sunday to Saturday 10:00 to 23:00. (The premises to be closed to members of the public 30 minutes thereafter).
2. The Premises licence is a time limited licence and granted for a period of 12 months.
3. In the event that a serious assault is committed on the premises (or appears to have been committed) the premises licence holder / designated premises supervisor will immediately ensure that:
 - (a) The police (and, where appropriate, the Ambulance Service) are called without delay;
 - (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
 - (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
 - (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
4. The premises shall join the local Pub Watch or other local crime reduction scheme approved by West Midlands Police.
5. An Automatic Number Plate Recognition (ANPR) vehicle recognition system shall be in operation in the car park at all times.
6. The car park to the premises shall be barriered so that it can be closed and locked after the end of licensing hours each day. The car park is to be lit at all times after dark by good quality lighting during operational hours and thereafter shall be lit by motion sensors to ensure that it is adequately lit at all times.
7. Drinks consumed in the beer garden area will be decanted into "polycarbs".

8. All windows and doors (including fire exits) to the premises shall be kept closed, except for access and egress, during any regulated entertainment.
9. A written noise management plan shall be drawn up and implemented which includes management at the premises proactively monitoring noise levels at the front, side and rear boundaries of the premises at regular intervals and during regulated entertainment and providing local residents with a contact number which will be answered and responded to in the event of any noise issues being experienced by local residents.
10. Whenever entertainment beyond incidental music is provided, a sound limiting device shall be fitted and used on all power points used in connection with amplification equipment to the satisfaction of the local Environment Health Officer in consultation with local residents.
11. There shall be no alcoholic drinks consumed in the car park.
12. Mr Hines shall play no part in the operation or management of the premises.

The meeting ended at 11.28 am

CHAIR

Licensing Sub-Committee 3 – 23rd February 2021

Report of the Acting Director of Public Realm

Application for Grant of a New Premises Licence

Unit 10, Castle Mill, Birmingham New Road, Dudley, DY1 4DA.

Purpose

1. To consider the application for the grant of a new premises licence in respect of the premises to be known as Unit 10, Castle Mill, Birmingham New Road, Dudley, DY1 4DA.

Recommendation

2. That the Sub-Committee determine the application for the grant of a premises licence in light of representations raised.

Background

3. On the 6th January 2021, an application for the grant of a new premises licence was received from Company Shop Limited, in respect of the premises to be known as Unit 10, Castle Mill, Birmingham New Road, Dudley, DY1 4DA. A copy of that application has been forwarded to the Committee Members and interested parties in accordance with the Licensing Act 2003.
4. The application had the following documents enclosed:-
 - Plan of the premises
 - Correct fee
 - Consent of the DPS



5. The application for a premises licence is as follows:

Supply of Alcohol and Recorded Music

Monday to Saturday 08.00 until 22.00

Sunday 10.00 until 16.00

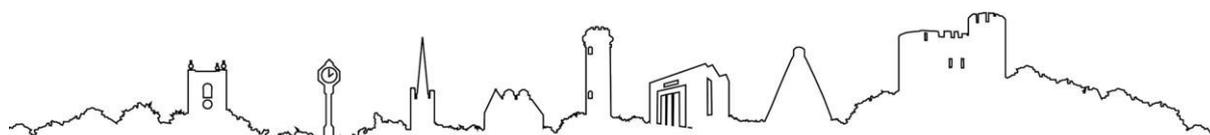
6. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
7. Representations have been received from a local resident. A copy of the representations has been forwarded to the Applicant, Committee Members and Interested parties in accordance with the Licensing Act 2003.

Finance

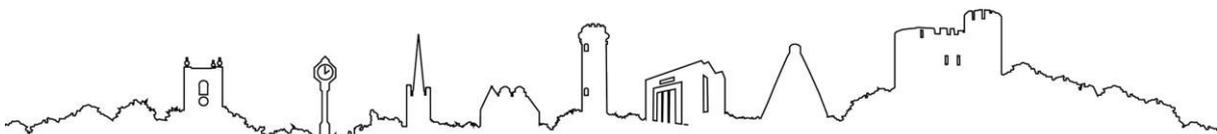
8. There are no financial implications.

Law

9. The law relating to the determination of applications for the grant of a premises licence is governed by the Licensing Act 2003, part 3, section 18.
10. Pursuant to Section 18(3) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
- (a) hold a hearing to consider them, unless the authority, the applicant each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the Licensing objectives.
11. Pursuant to Section 18 (4) the steps are:-
- (a) to grant the licence subject to:-
 - (i) such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and



- (ii) any condition which must under section 19, 20 or 21 be included in the licence;
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application
12. Pursuant to Section 23(1) of the Licensing Act 2003 where an application (or any part of an application) is granted under section 18 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to:-
- 1 (a) (i) the applicant
 - 1 (a) (ii) any person who made relevant representations in respect of the application and
 - 1 (a) (iii) the Chief Officer of Police for the police area in which the premises are situated and
 - 1 (b) issue the application with the licence and a summary of it
13. Pursuant to section 23(2) where relevant representations were made in respect of the application, the notice under subsection (1)(a) must state the authority's reasons for its decisions as to the steps (if any) to take under section 18(3)(b).
14. Pursuant to section 23(3) where an application is rejected under section 18, the licensing authority must forthwith give a notice to that effect stating its reasons for the decision, to
- (a) the applicant
 - (b) any person who made relevant representations in respect of the application, and
 - (c) the Chief of Police for the police area or each police area in which the premises are situated
15. Where a Local Authority grant a licence under section 18 pursuant to schedule 5 of the Licensing Act, section 2 the holder of the licence may appeal against any decision:-



- (a) to impose conditions on the licence under subsection (2)(a) or 3(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor)
16. Where a person who made relevant representations in relation to the application desires to contend:-
- (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section, he may appeal against the decision.
17. In pursuance of regulation 26(2) of the Licensing Act 2003 (Hearing Regulations 2005) the Licensing Authority must make its determination within 5 working days of the conclusion of the hearing.
18. If the Licensing Authority refuse to grant the application, there is a right of appeal. The appeal under this part must be made to a Magistrates' Court pursuant to schedule 5 section 9 of the Licensing Act 2003.

Equality Impact

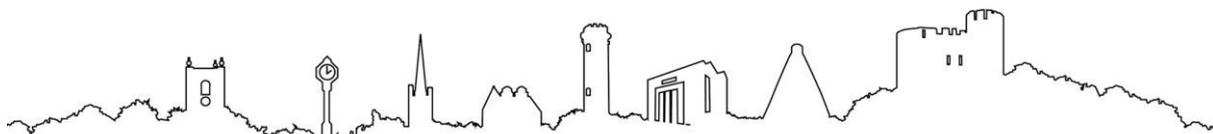
19. This report takes into account the Council's policy on equal opportunities.
20. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
21. There has been no consultation or involvement of children and young people in developing these proposals.

Human Resources/Organisational Development

22. There are no organisational development/transformation implications.

Commercial/Procurement

23. There are no commercial/procurement implications.



Health, Wellbeing and Safety

24. This application falls within the Council's responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.



Garry Dean
Acting Director of Public Realm

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