

**Licensing Sub-Committee 3 – 22<sup>nd</sup> March 2016**

**Report of the Strategic Director Place.**

**Application for Review of Premises Licence**

**Purpose of Report**

1. To consider the application for the review of the premises licence in respect of the Premises Licence for Rock Zombie, Plaza Malls, King Street, Dudley, West Midlands, DY2 8NZ.

**Background**

2. Rock Zombie was first issued with a premises licence on the 8<sup>th</sup> February 2013, that licence was subsequently varied on the 13<sup>th</sup> August 2015, the current licence is issued as follows:

<b>D: Boxing or Wrestling</b>	<b>Monday to Sunday</b>	<b>12:00</b>	<b>06:00</b>
<b>E: Live Music</b>	<b>Monday to Sunday</b>	<b>12:00</b>	<b>06:00</b>
<b>E: Live Music</b>	<b>From 12.00hrs on New Years Eve to 00.00hrs on New Years Day</b>		
<b>F: Recorded Music</b>	<b>Monday to Sunday</b>	<b>12:00</b>	<b>06:00</b>
<b>F: Recorded Music</b>	<b>From 12.00hrs on New Years Eve to 00.00hrs on New Years Day</b>		
<b>H: Entertainment similar to E, F or G</b>	<b>Monday to Sunday</b>	<b>12:00</b>	<b>06:00</b>
<b>H: Entertainment similar to E, F or G</b>	<b>From 12.00hrs on New Years Eve to 00.00hrs on New Years Day</b>		
<b>L: Late Night Refreshment</b>	<b>Monday to Sunday</b>	<b>23:00</b>	<b>06:00</b>
<b>L: Late Night Refreshment</b>	<b>From 12.00hrs on New Years Eve to 00.00hrs on New Years Day</b>		

<b>M: Supply of Alcohol</b>	<b>Monday to Sunday</b>	<b>12:00</b>	<b>06:00</b>
<b>M: Supply of Alcohol</b>	<b>From 12.00hrs on New Years Eve to 00.00hrs on New Years Day</b>		

A copy of that licence with attached conditions has been forwarded to Committee Members.

3. The current premises licence holder is Mrs A T Jinks.
4. On the 25<sup>th</sup> February 2016, the West Midlands Police made application for the expedited licence review of the premises licence in respect of Rock Zombie, Plaza Malls, King Street, Dudley, West Midlands. A copy of that application and certificate under section 53A (1)(B) of the Licensing Act 2003 has been served on the premises licence holder, Committee Members and interested parties, in accordance with the Licensing Act 2003.
5. The Council has advertised the application for review of the premises licence in accordance with Licensing Regulation S1, 2004, No 42, Section 38. A copy of that notice is attached to this report as Appendix 1.
6. Due to the time restriction all representations will be forwarded to the premises licence holder, interested parties and Committee Members prior to the hearing on the 22<sup>nd</sup> March 2016.
7. Following receipt of the application on the 29<sup>th</sup> February 2016, the Licensing Sub-Committee held an interim review hearing to consider whether it was necessary to take interim steps pending the determination of the review of premises licence. The Committee were concerned and believed that the police were right to have brought this proceeding. However they note that the police did not take steps to close the premises immediately and for that reason they were not minded to close the premises pending the full review on the 22<sup>nd</sup> March 2016, provided that the premises licence holder undertakes to take the following actions:-
  1. Door staff – 6 staff including a minimum of at least one female at all times during the hours the premises are open to the public.
  2. There must be a strict search policy for entrants.
  3. The services of the providers of door staff to date are to be dispensed with as are all of the door staff employed under that regime. A completely new team are to be employed.
  4. Log and record including the SIA number of security staff.
  5. There will be at last entry policy restricting no entry to new patrons after 1.00am the licensable activity to cease at 3.00am.
  6. The premises are to be totally vacated by 4.00am.
  7. The barriers surrounding the smoking area are to be more robust.

8. The wheelie bins are to be removed during opening hours.

The Committee further resolved that the above conditions be imposed in addition to the premises existing conditions and that unless the premises licence holder agrees to implement these additional conditions forthwith the Committee will suspend the premises licence immediately pending the review meeting.

8. 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.

### **Finance**

9. There are no financial implications.

### **Law**

10. The law relating to the review of the premises licence (premises associated with serious crime or disorder) is governed by the Licensing Act 2003 Section 53A.

11. Within 48 hours of the time of receipt of application and certificate the Licensing Authority must consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence.

12. The steps are: -

- (a) the modification of conditions of the premises licence
- (b) the exclusion of the sale of alcohol by retail from the scope of the licence.
- (c) the removal of the designated premises supervisor from the licence
- (d) the suspension of the licence

13. Where on its consideration the Licensing Authority does take one or more of these steps:

- (a) The decision takes effect immediately or as soon after as the Licensing Authority directs.
- (b) It must give immediate notice of its decision and of its reasons for making it to:-
  - (i) the holder of the licence and
  - (ii) the Chief Officer of Police

14. If the holder of the premises licence makes and does not withdraw representations against the interim steps taken by the Licensing Authority, the Authority must within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.

15. The Licensing Authority must give advance notice of the hearing to the
  - (a) The holder of the premises licence
  - (b) The Chief Officer of Police
16. At the hearing the Licensing Authority must
  - (a) consider whether the interim steps are necessary for the promotion of the licensing objectives: and
  - (b) Determine whether to withdraw or modify the steps taken
17. In considering those matters the licensing authority must have regard to
  - (a) the certificate that accompanied the application
  - (b) any representations made by the Chief Officer of Police
  - (c) any representations made by the holder of the premises licence.

Hold a full Review within 28 Days of receipt of application

18. The law relating to the review of licences is governed by the Licensing Act, 2003 Section 52(1).

52(1) This section applies where:-

- (a) The relevant licensing authority receives an application made in accordance with Section 51.
  - (b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
  - (c) the authority has complied with any requirement imposed on it under subsection (3)(b) or (d) of that section
19. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
  20. The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
  21. The steps are -
    - (a) to modify the conditions of the licence;
    - (b) to exclude a licensable activity from the scope of the licence;
    - (c) to remove the designated premises supervisor;
    - (d) to suspend the licence for a period not exceeding three months;

(e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

22. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

23. Where the authority takes a step mentioned in subsection (4) (a) or (b) it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

24. In this section “relevant representations” means representations which -

(a) are relevant to one or more of the licensing objectives, and

(b) meet the requirements of subsection (8).

25. The requirements are -

(a) that the representations are made –

(i) by the holder of the premises licence, a responsible authority or an interested party, and

(ii) within the period prescribed under section 51(3)(c)

(b) that they have not been withdrawn, and

(c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

26. Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.

27. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to –

(a) the holder of the licence

(b) the applicant

(c) any person who made relevant representations, and

(d) the chief officer of police for the police area (or each police area) in which the premises are situated.

28. A determination under this section does not have effect -

(a) until the end of the period given for appealing against the decision, or

- (b) if the decision is appealed against, until the appeal is disposed of
29. Pursuant to schedule 5 part 1, section 8(2)
- An appeal may be made against the decision of the committee by –
- (a) the applicant for the review
  - (b) the holder of the premises licence or
  - (c) any other person who made relevant representations in relation to the application for review.

### **Equality Impact**

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

### **Recommendation**

33. That the Sub-Committee consider the application.



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STRATEGIC DIRECTOR PLACE

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### **List of Background Papers**

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