

**Meeting of the Licensing Sub-Committee 4**

**Tuesday 26<sup>th</sup> April, 2022 at 10.00am**

**In the Council Chamber at the Council House, Priory Road, Dudley**

**Agenda - Public Session**

**(Meeting open to the public and press)**

1. Apologies for absence.
2. To report the appointment of any substitute Members for this meeting of the Sub-Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm and sign the minutes of the meeting held on 11<sup>th</sup> January, 2022 as a correct record.

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

5. Application to Vary a Premises Licence – Budgens, 58 High Street, Pensnett, Brierley Hill (Pages 1 - 4)
6. 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: 14<sup>th</sup> April, 2022**

**Distribution:**

**Members of the Licensing Sub-Committee 4**

Councillor J Clinton (Chair)

Councillors R Burston and J Cowell



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### **Covid-19 Secure Working**

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- Face masks may be removed when you are participating in the meeting.
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- Do not attend if you feel unwell; if you have tested positive for Covid-19; if you are self-isolating or if you suspect that you are symptomatic.
- All people are encouraged to be double vaccinated to limit any potential ill-health effects.
- Please be respectful of everyone's personal space and preferences when you attend meetings.

### **Toilets**

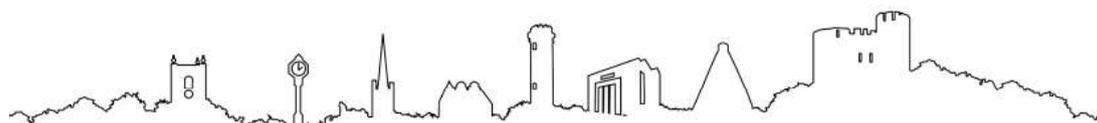
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### **Submitting Apologies for Absence**

- Elected Members can submit apologies by contacting Democratic Services (see our contact details below). Members wishing to appoint a substitute should notify Democratic Services as soon as possible in advance of the meeting. Any substitute Members must be eligible to serve on the meeting in question (for example, he/she must have received the training required by the Council).

### **Private and Confidential Information**

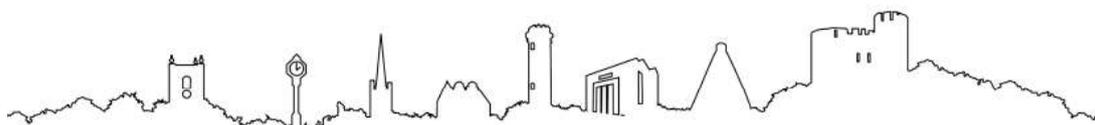
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### **General**

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- Information about the Council and our meetings can be viewed on the website [\*\*www.dudley.gov.uk\*\*](http://www.dudley.gov.uk)

### **If you need advice or assistance**

- If you (or anyone you know) requires assistance to access the venue, or if you have any other queries, please contact Democratic Services - Telephone 01384 815238 or E-mail [\*\*Democratic.Services@dudley.gov.uk\*\*](mailto:Democratic.Services@dudley.gov.uk)



## Licensing Sub-Committee Procedure

- Chair to welcome parties and introduce Members and Officers
- Establish who the parties are and any representatives
- Chair to confirm that all parties have had disclosure of all documents that the Committee has before them and been allowed sufficient opportunity to read them prior to the meeting.
- Presenting Officer of the Local Authority or Solicitor to present the report to the Sub-Committee
- Relevant Authority to present their evidence and the Chair will then ask if any of the following have questions for the Officer:-
  - Objectors/or their representative
  - Applicant or representative
  - Sub-Committee Members and Legal Advisor
- Objectors or their representative/nominated person to present his/her case (including Ward Members)
  - Any witnesses to be called
  - Each witness to be questioned through the Chair in the following order:-
    - Representative of objectors (if present), if no representative, the objectors
- The Chair will then ask the following if they have any questions for the representative or the objectors:-
  - Presenting Officer Local Authority (or Solicitor)
  - Applicant or Representative
  - Sub-Committee Members and Legal Advisor
- Applicant or representative to introduce his or her case
  - Any witnesses for the applicant to be called
  - Each witness to be questioned through the Chair in the following order:-
    - Representative of Applicant (if present)
    - Presenting Officer Local Authority/Solicitor
    - Relevant Authority
    - Objector or Representative
    - Sub-Committee Members and Legal Advisor
- Presenting Officer of the Local Authority/Solicitor to sum up.
- Objectors/Representative to sum up



- Applicant or representative to sum up (must make final comments)
- Legal Advisor indicates to parties details of legal advice to be given to Sub-Committee
- Parties asked if they have had a fair hearing
- All parties, together with any members of the public to withdraw
- Sub-Committee to make their decision
- All parties invited to return and the Chair reads out the decision and the reasons for the decision.



**Minutes of the Licensing Sub-Committee 4  
Tuesday, 11<sup>th</sup> January, 2022 at 10.00 am  
In the Council Chamber, Council House, Dudley**

**Present:-**

Councillor J Clinton (Chair)  
Councillors R Burston and J Cowell

**Officers:-**

N Slym – Assistant Team Manager (Directorate of Public Realm), R Clark – Solicitor and  
K Griffiths - Democratic Services Officer (Directorate of Finance and Legal).

**Also in attendance:-**

S Smith –Team Manager - Licensing and Waste Enforcement (Directorate of Public Realm) -  
Observer

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6. **Declarations of Interest**

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

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7. **Minutes**

**Resolved**

That the minutes of the meeting held on 20<sup>th</sup> July, 2021, be approved as a  
correct record and signed.

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8. **Application for Grant of a New Premises Licence – Stourbridge Cinema, 1-3 Ryemarket, Stourbridge**

At the request of the applicant prior to the meeting, this item of business was deferred to a future meeting.

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9. **Application for Grant of a New Premises Licence – Bianca Romanian Shop, 3 Wolverhampton Street, 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 Bianca Romanian Shop, 3 Wolverhampton Street, Dudley.

The following were in attendance at the meeting: -

Mr G Tonciu, Applicant

Ms K Turley and Ms D Jenkins – West Midlands Police

Following introductions, K Griffiths declared an interest as she knew the applicant outside of her employment, however, as she was not involved in the decision-making process, all parties agreed to proceed with the meeting.

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

The Assistant Team Manager - Licensing and Waste Enforcement presented the report on behalf of the Council.

Ms D Jenkins, on behalf of West Midlands Police, referred to representations submitted on 16<sup>th</sup> December, 2021, concerning the application for a new premises licence on the grounds that the applicant indicated that Security Industry Authority (SIA) door staff were not required, the operating schedule lacked sufficient detail and that the applicant had not responded to an e-mail from West Midlands Police dated 29<sup>th</sup> November, 2021 requesting that Part M of the Operating Schedule be amended to address the concerns raised. It was noted that the information supplied had not satisfied the licensing objective in relation to the prevention of crime and disorder. It was reported that when applying for a new premises licence in the Dudley Borough, applicants were provided with a list of licensing requirements formulated by responsible authorities, self-tailored to specific premises, outlining information on what was expected to be included in the application. It was noted that an Enforcement Officer had also contacted the applicant to provide verbal advice on the licensing objectives.



The applicant informed the Sub-Committee that he had submitted a response updating Part M of the Operating Schedule to the Licensing Officer to address the concerns raised on 1<sup>st</sup> December, 2021. The Sub-Committee, having not received a copy of the applicant's response, agreed to adjourn the meeting to enable the information to be printed and circulated to the Sub-Committee. The meeting adjourned at 11.15am and recommenced at 11.35am following the Sub-Committee's perusal of the additional information presented.

In referring to the proforma relating to the prevention of crime and disorder previously circulated to the applicant by West Midlands Police, particularly the three conditions relating to the installation and operation of closed-circuit television (CCTV), the applicant informed the Sub-Committee that he would be happy to replace the initial condition proposed as part of the operating schedule for the three conditions recommended by the West Midlands Police. In view of the proposal, West Midlands Police were satisfied that the operating schedule would uphold the licensing objections.

It was established that CCTV was currently not in operation at the premises and the Solicitor reminded the applicant that should he sell alcohol prior to the CCTV being installed, he would be in breach of his licensing conditions and appropriate action would be taken.

## **Resolved**

That following consideration of the information contained in the report submitted and presented at the meeting, the application for a new premises licence in respect of Bianca Romanian Shop, 3 Wolverhampton Street, Dudley, be granted, subject to the following conditions to replace the content of Part M of the original Operating Schedule.

- (1) All staff will be made aware of legislation covering the sale of age restricted products and a challenge 25 policy shall be operated within the shop.
- (2) The fire exit for the premises shall be clearly marked.
- (3) CCTV shall be installed in the premises and will record all incidents inside and immediately outside the premises, and retained for a minimum of 30 days. All recordings will be backed up to a separate server (i.e. Cloud or similar) and shall be available on request by the police or any other responsible authority. Any CCTV hard drive that is damaged or broken will be retained at the premises for a minimum of 30 days and shall be available on request by the police or any other responsible authority. The Digital Video Recorder (DVR) will be kept at all times in a locked and secure area.



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- (4) At least one member of staff on duty in the shop, shall, at all times, be conversant with how to view and download from the CCTV system. The staff member must be able to download any footage at the request of the police or officer of another responsible authority, within 24 hours of a request, and they will provide their own Universal Serial Bus (USB) or disc for this purpose.
- (5) At the beginning of every day, prior to the licensable activity taking place, the CCTV will be checked to confirm that it is in working order and the time and date shall be documented and the record signed and made available to the police or officer of another responsible authority upon request.
- (6) No music will be played on the premises and there will be no form of entertainment at the premises, so as to avoid a public nuisance.
- (7) All alcohol on sale will be displayed in full view of the tills and all customers will be monitored around age restricted products.
- (8) There will be challenge 25 signs located on the entrance to the shop and around the shop. There will be additional signage around the alcohol display area.
- (9) A refusals register shall be kept at the till and completed when required. This will made available to an officer of the licencing authority or the Police upon request.

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10. **Application for Grant of Consent to Engage in Street Trading – Mr C Davis (Fishmonger), Stourbridge Town Centre**

A report of the Acting Director of Public Realm was submitted in respect of an application made by Mr C Davis (Fishmonger) on an application for the consent to engage in street trading in Stourbridge Town Centre.

Mr C Davies was in attendance at the meeting.

Following introductions, the Solicitor informed the Sub-Committee that having received representations from Street and Green Care – Traffic and Road Safety on 30<sup>th</sup> September, 2021, it appeared that the location in The Ryemarket that Mr C Davis had applied for street trading was currently licensed to Coffee 1 following a legal agreement entered into under The Highways Act 1980 dated 21<sup>st</sup> December, 2016. A copy of two plans, together with the agreement had been circulated to the Sub-Committee prior to the meeting.

The Sub-Committee was unable to consider the current application to consent in street trading due to two different plans being submitted to the Sub-Committee which marked the area covered by the legal agreement differently and therefore, in the absence of a representative of Street and Green Care, was unable to ascertain which plan was correct.

The applicant indicated that he had traded as a Fishmonger in the Borough of Dudley for thirty years and stated that he would be happy to trade in Stourbridge Town Centre in an area that was not currently being utilised. The Assistant Team Manager agreed to liaise with appropriate officers to clarify the area covered by Coffee 1's legal agreement and potential consent areas in Stourbridge Town Centre where Mr C Davis would be authorised to trade.

### **Resolved**

That following consideration of the information contained in the report submitted, the application to consent in street trading made by Mr C Davis (Fishmonger) in Stourbridge Town Centre, be deferred to a future meeting of the Sub-Committee to enable Street and Green Care to provide clarification of the precise area covered by the legal agreement under The Highways Act 1980 dated 21<sup>st</sup> December, 2021 between The Borough Council of Dudley and Coffee 1.

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The meeting ended at 12.15am

CHAIR

## **Meeting of the Licensing Sub-Committee 4 – 26<sup>th</sup> April 2022**

### **Report of the Interim Director of Public Realm**

### **Application to Vary a Premises Licence**

### **Budgens, 58 High Street, Pensnett, Brierley Hill, DY5 4RH**

#### **Purpose**

- 1 To consider the application for variation of the premises licence in respect of the premises to be known as Budgens (formerly Sainsbury's Supermarket) 58 High Street, Pensnett, Brierley Hill, DY5 4RH.

#### **Recommendation**

2. That the Sub-Committee determine the application for variation of the premises licence following the receipt of representations.

#### **Background**

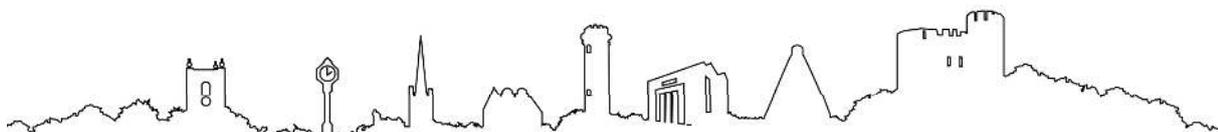
3. Budgens (formerly Sainsbury's Supermarket), was first issued with a premises licence on the 6<sup>th</sup> February 2013.
4. The current premises licence holder is Samy Limited, the current licence is issued for the following days and times:

#### **Supply of Alcohol**

Monday to Sunday inc 06.00 until 00.00

#### **Premises Open to the Public**

Monday to Sunday inc 00.00 until 24.00



5. On the 8<sup>th</sup> March 2022, Winckworth Sherwood LLP made application on behalf of Samy Limited, for the variation of the premises licence as follows:

**Supply of Alcohol/Hours Premises Open to the Public**

Monday to Sunday inc 00.00 until 24.00

**Late Night Refreshment**

Monday to Sunday inc 23.00 until 05.00

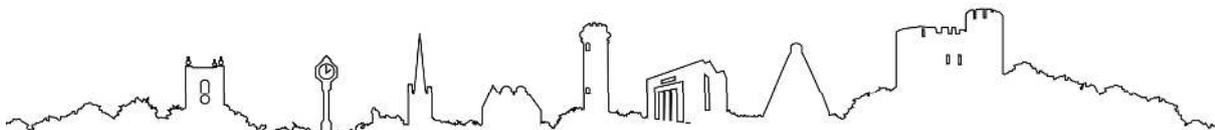
6. Confirmation that copies of the application form and supporting documentation has been served on the relevant authorities has been received.
7. Representations in respect of the application have been received from West Midlands Police and two Ward Members. Copies of all representations have been forwarded to Committee Members, interested parties and the Applicant in accordance with Licensing Act 2003.

**Finance**

8. There are no financial implications.

**Law**

9. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
10. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant representation is made, 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:-
  - To modify the conditions of licence;



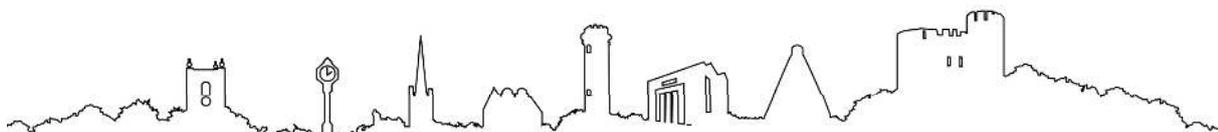
- To reject the whole or part of the application.
11. Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where an application (or any part of an application) is granted or rejected under Section 35 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect 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.
  12. 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.
  13. In pursuance of schedule 5, section 4 if the Licensing Authority refuse to grant the application vary the premises licence, there is a right of appeal to the Magistrates' Court.
  14. In pursuance of schedule 5, section 4(2) 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.
  15. In pursuance of schedule 5 section 4(3) where a person who made relevant representations to the application desires to contend:-
    - a) that any variation made ought not to have been made, or
    - b) 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.

### **Risk Management**

16. There are no risk management implications.

### **Equality Impact**



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

### **Human Resources/Organisational Development**

20. There are no Human Resources/organisational Development implications.

### **Commercial/Procurement**

21. There are no commercial/procurement implications.

### **Council Priorities**

22. This application falls within the Council's responsibility for Licensing as a direct link to the Council's key corporate priority to support stronger and safer communities.



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**Andy Vaughan**  
**Interim Director of Public Realm**

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