

# LICENSING SUB-COMMITTEE 3

TUESDAY 25<sup>TH</sup> SEPTEMBER, 2012

AT 10.30 AM  
COUNCIL CHAMBER  
COUNCIL HOUSE  
PRIORY ROAD  
DUDLEY

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Dudley  
Metropolitan Borough Council

## **IMPORTANT NOTICE**

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Your ref: Our ref: Please ask for: Telephone No.  
KT Karen Taylor 01384 818116

13<sup>th</sup> September 2012

Dear Member

**Meeting of Licensing Sub-Committee 3 – Tuesday 25<sup>th</sup> September, 2012**

You are requested to attend a meeting of Licensing Sub-Committee 3 to be held on Tuesday 25<sup>th</sup> September, 2012 at **10.30 am** in the Council Chamber at the Council House, Priory Road, Dudley, West Midlands, DY1 1HF to consider the business set out in the Agenda below.

The agenda and reports for this meeting can be viewed on the Council's internet site [www.dudley.gov.uk](http://www.dudley.gov.uk) and follow the links to Meetings and Decisions.

Yours sincerely



Director of Corporate Resources

**A G E N D A**

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitutes for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive declarations of interest in accordance with the Members' code of conduct.

4. MINUTES

To approve as a correct record and sign the minutes of the meeting held on 21<sup>st</sup> August, 2012 (copy attached).

5. APPLICATION FOR REVIEW OF PREMISES LICENCE – KAL AND BROTHERS NEWS, 35 CHURCH STREET, PENSNETT, BRIERLEY HILL (PAGES 1 – 5)

To consider a report of the Director of Corporate Resources.

6. APPLICATION TO VARY A PREMISES LICENCE – KATIE FITZGERALD'S, 187 ENVILLE STREET, STOURBRIDGE (PAGES 6 – 9)

To consider a report of the Director of Corporate Resources.

7. TO ANSWER QUESTIONS UNDER COUNCIL PROCEDURE RULE 11.8 (IF ANY).

**Distribution**

Councillors:	K. Finch (Chair)	M. Aston	James
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### **LICENSING SUB-COMMITTEE 3**

Tuesday 21<sup>st</sup> August, 2012 at 10.05am  
in The Council Chamber, The Council House, Dudley

#### **PRESENT:-**

Councillors M. Aston, Blood and James

#### **Officers**

Mr T Holder (Legal Advisor), Mrs J Elliott (Licensing Officer) and Mrs K Taylor (Directorate of Corporate Resources).

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#### **1. ELECTION OF CHAIR**

In the absence of the chair (Councillor K. Finch) it was

RESOLVED

That Councillor Blood be elected chair for this meeting of the Sub-Committee only.

(Councillor Blood in the Chair)

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#### **2. APOLOGY FOR ABSENCE**

An apology for absence from the meeting was submitted on behalf of Councillor K. Finch.

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#### **3. APPOINTMENT OF SUBSTITUTE MEMBER**

It was noted that Councillor Blood had been appointed as a substitute member for Councillor K Finch, for this meeting of the Sub-Committee only.

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#### **4. DECLARATIONS OF INTEREST**

No member declared an interest in accordance with the Members' Code of Conduct.

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#### **5. MINUTES**

RESOLVED

That, the minutes of the meeting held on 21<sup>st</sup> December, 2011, be approved as a correct record and signed.

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6. CHANGE IN ORDER OF BUSINESS

RESOLVED

That, in accordance with Council Procedure Rule 12(c), the remaining Agenda Items be considered in the following order:-

6, 5 and 7

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7. APPLICATION FOR A LICENSED PREMISES GAMING MACHINE PERMIT – CHEQUERS INN, 96 HIGH STREET, STOURBRIDGE

A report of the Director of Corporate Resources was submitted on an application received from JD Wetherspoon, for the grant of a Licensed Premises Gaming Machine Permit for four category C machines in respect of Chequers Inn, 96 High Street, Stourbridge.

Mr D Edwards, Designated Premises Supervisor was in attendance at the meeting.

Following introductions, the Chairman outlined the procedure to be followed.

Mrs J Elliott, Licensing Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

Clarification was sought with regards to the siting of the machines, and the layout of the premises.

In responding to a question from the Legal Advisor, Mr Edwards informed the Sub-Committee that no under 18s were permitted to use the machines, and that families do visit the premises occasionally.

RESOLVED

That the application received from JD Wetherspoon, for the grant of a Licensed Premises Gaming Machine Permit for four category C machines in respect of Chequers Inn, 96 High Street, Stourbridge, be approved on the grounds that the Sub-Committee were satisfied with the positioning of the four machines, as confirmed on the plan by Mr Edwards.

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8. APPLICATION FOR REVIEW OF PREMISES LICENCE – FAGS AND MAGS LIMITED, 1-5 NEW STREET, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Fags and Mags Limited, 1-5 New Street, Dudley.

Mr C King, Principal Trading Standards Officer and Ms L Ingram, Enforcement Officer, Directorate of the Urban Environment, and PC A Taylor, Licensing Officer, Stourbridge were in attendance at the meeting.

It was noted that the Premises Licence Holder of Fags and Mags Limited was not in attendance.

The Licensing Officer requested an adjournment of the meeting, to allow for an enforcement officer to visit the premises to question their non-attendance, due to the premises being in close proximity.

The Sub-Committee agreed to the proposal made.

At the re-commencement of the meeting, Mr Trickett, an Enforcement Officer, informed the Sub-Committee that on entering the premises, the Premises Licence Holder was not there, however when he returned to the premises he informed Mr Trickett that he had not received a copy of the letter inviting him to the Sub-Committee, and that he wished to relinquish his premises licence. Mr Trickett further confirmed that there was no alcohol displayed in the premises.

Following a brief discussion it was

**RESOLVED**

That, the Licensing Officer be requested to write to the Premises Licence Holder to request that the premises licence be relinquished within seven days of the date of the letter sent, and that should he failure to do so the matter be considered at a future Sub-Committee meeting.

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9. APPLICATION FOR A CLUB PREMISES CERTIFICATE – COOMBS WOOD SPORTS AND SOCIAL CLUB

A report of the Director of Corporate Resources was submitted on an application for the grant of a club premises certificate in respect of Coombs Wood Sports and Social Club.

It was noted that the applicant was not in attendance at the meeting.

The Licensing Officer confirmed that the applicant had requested a deferment.

**RESOLVED**

That the application for the grant of a club premises certificate in respect of Coombs Wood Sports and Social Club be deferred to a future Sub-Committee meeting.

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The meeting ended at 10.50am.

CHAIR



**Licensing Sub-Committee 3 – 25<sup>th</sup> September 2012**

**Report of the Director of Corporate Resources**

**Application for Review of a Premises Licence**

**Purpose of Report**

1. To consider the application for the review of the premises licence in respect of Kal and Brothers News, 35 Church Street, Pensnett, Brierley Hill, West Midlands, DY5 4HB.

**Background**

2. Kal and Brothers News (formerly known as The Stores) was first issued with a premises licence on the 19<sup>th</sup> September 2005. That licence was subsequently transferred on the 29<sup>th</sup> December 2005, and from that date was known as Sameer and Saviara News. The Premises is currently known as Kal and Brothers News.
3. The current premises licence is issued for the following:-  
  
Sale of Alcohol  

Monday to Saturdays	08.00 – 23.00
Sundays	10.00 – 22.30
Good Fridays	08.00 – 22.30
Christmas Day	12.00 – 15.00 19.00 – 22.30
4. The current premises licence holder is Mr N Hussain.
5. On the 6<sup>th</sup> August 2011, an application for the review of the premises licence was received from the Trading Regulation and Enforcement Manager of the Directorate of the Urban Environment. A copy of that application has been circulated to Committee Members and interested parties in accordance with the Licensing Act 2003.

6. 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.
7. Confirmation that the application has been served on the premises licence holder and relevant authorities have been received.
8. Representations have been received from the West Midlands Police. A copy of that report has been circulated to Committee Members, the premises licence holder, the applicant and interested parties.
9. Representations have also been received from Dudley Public Health Authority. A copy of that report has also been circulated to Committee Members, the premises licence holder, the applicant and interested parties.
10. 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**

11. There are no financial implications.

### **Law**

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

Determination of application for review

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
13. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
  14. 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 necessary for the promotion of the licensing objectives.
  15. 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.

16. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
17. 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,
18. 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).
19. 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.
20. 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.
21. 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.

22. 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
23. Pursuant to schedule 5 part 1, section 8(2)
24. 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**

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

### **Recommendation**

28. That the Sub-Committee determine the review of the premises licence in respect of Kal and Brothers News, 35 Church Street, Pensnett, Brierley Hill, West Midlands, DY5 4HB.



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DIRECTOR OF CORPORATE RESOURCES

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**List of Background Papers**

## DUDLEY METROPOLITAN BOROUGH COUNCIL

[www.dudley.gov.uk](http://www.dudley.gov.uk)

REVIEW OF PREMISES LICENCE  
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to Kal and Brothers News, 35 Church Street, Pensnett, DY5 4HB.

Interested parties and relevant authorities may make representations in writing to the Licensing Officer, Law and Governance, 5 Ednam Road, Dudley, West Midlands, DY1 1HL between 6<sup>th</sup> August 2012 and 2<sup>nd</sup> September 2012.

The Review of Licence has been requested by a relevant authority on the grounds of

- Prevention of crime and disorder
- Protection of children from harm

The details of the grounds for review may be inspected at the Licensing Offices (address as above) between the hours of 9.00 am and 4.30pm (Monday to Friday except Public Holidays).

It is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence is £5,000.



P J Tart  
Director of Corporate Resources

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**Licensing Sub-Committee 3 – 25<sup>th</sup> September 2012**

**Report of the Director of Law of Corporate Resources**

**Application to vary a Premises Licence**

**Purpose of Report**

1. To consider the application for variation of the premises licence in respect of the premises known as Katie Fitzgerald's, 187 Enville Street, Stourbridge, West Midlands, DY8 3TB.

**Background**

2. Katie Fitzgerald's made application on the 4<sup>th</sup> August 2005 for the conversion of an existing licence into a premises licence. That application was granted on the 26<sup>th</sup> September 2005.
3. That premises licence is issued as follows:-

**Sale of Alcohol**

Mondays – Saturday	10.00 – 23.00
Sundays & Good Friday	12.00 – 22.30
Christmas Day	12.00 – 15.00
	19.00 – 22.30

Regulated entertainment (recorded music/performance of dance/performance of live music)

Monday – Saturday	20.00 – 23.00
Sundays	20.00 – 22.30

4. The current premises licence holder is Mrs P R Keane.
5. On the 3<sup>rd</sup> August 2012, Mrs Petrina Keane made application for the variation of the premises licence in respect of the premises known as Katie Fitzgerald's, 187 Enville Street, Stourbridge, West Midlands. A copy of that application has been circulated to the Committee Members and interested parties in accordance with the Licensing Act 2003.

6. The application had the following documents enclosed:-

- Correct fee (£190.00)
- Plan of the premises

7. The application is as follows:-

To include the sale of alcohol from the bar serverly on the rear patio area as shown on the amended plans attached to the application. To include the change of hours on the upstairs bar, cellar bar and marquee bar as follows:-

Monday – Saturday	10.00 – 01.00
Sunday	12.00 – 01.00

8. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
9. Representations have been received from 15 local residents, and also a petition. A copy of those representations have been served on the applicant, Committee Members and all interested parties in accordance with the Licensing Act 2003.
10. Some residents have made reference to problems with parking. However this is not an issue for the Licensing Sub-Committee.
11. On the 22<sup>nd</sup> August 2012, Dudley Public Health made comments, which have been circulated, to the applicant, Committee Members and interested parties.
12. On the 31<sup>st</sup> August 2012, representations were received from Food and Occupational Safety (Directorate of the Urban Environment). A copy of that report has been circulated to the applicant, Committee Members and interested parties.
13. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

### **Finance**

14. There are no financial implications.
15. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
16. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.

### **Equality Impact**

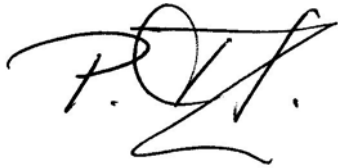
22. This report takes into account the Council's policy on equal opportunities.



23. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
24. There has been no consultation or involvement of children and young people in developing these proposals.

**Recommendation**

25. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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