

**Licensing Sub-Committee 4 – 2<sup>nd</sup> October 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 matter was due to be considered by the Licensing Sub-Committee on the 25<sup>th</sup> September 2012. That matter was however deferred at the request of the Solicitor representing the premises licence holder until 2<sup>nd</sup> October 2012.
11. 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**

12. There are no financial implications.

### **Law**

13. 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
14. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
  15. 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.

16. 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.

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

18. 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,

19. 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).

20. 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.

21. 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.

22. 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.
23. 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
24. Pursuant to schedule 5 part 1, section 8(2)
25. 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**

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

### **Recommendation**

29. 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

Contact Officer: Mrs. J. Elliott 5377  
Telephone: 01384 815377  
Email: [janet.elliott@dudley.gov.uk](mailto:janet.elliott@dudley.gov.uk)

**List of Background Papers**