



Licensing Sub-Committee 3

**Tuesday, 22nd March, 2016 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 12th January, 2016 as a correct record
5. Application for Review of Premises Licence – Rock Zombie, Plaza Malls, King Street, Dudley

A handwritten signature in black ink, appearing to be "P. V. A.", is written over a faint, larger signature that is mostly obscured.

Strategic Director Resources and Transformation

Dated: 10th March, 2016

Distribution:

Councillor J Cowell (Chair); Councillors D Russell (Substitute) and A Taylor

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Minutes of Licensing Sub-Committee 3

Tuesday 12th January, 2016 at 10.05 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor J Cowell (Chair)
Councillors S Henley and A Taylor

Officers:-

R Clark (Principal Solicitor – Resources and Transformation Directorate), S Smith (Licensing Enforcement Officer – Place Directorate), L Rouse (Senior Licensing Clerk – Place Directorate) and K Taylor (Democratic Services Officer - Resources and Transformation Directorate)

1 **Declarations of Interest**

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

2 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 28th April, 2015, be approved as a correct record and signed.

3 **Application for a Licensed Premises Gaming Machine Permit – The Bowlplex, Birmingham Road, Dudley**

A report of the Strategic Director Place was submitted on an application for the grant of a Licensed Premise Gaming Machine permit for eight, Category C machines, and 25 Category D machines in respect of the premises known as The Bowlplex, Birmingham Road, Castle Gate Park, Dudley.

In attendance was Mr N Aaron, Solicitor on behalf of the applicant, together with three Team Managers from the TenPin Company.

Following introductions, the Licensing Enforcement Officer presented the report on behalf of the Council.

Mr Aaron then presented the case on behalf of the applicant, and in doing so stated that TenPin Company had recently purchased Bowlplex Newco Limited and that the application was submitted in reflection of the changes to the regulations that require previously uncategorised machines to be covered by a permit, some of which were operated by Bowlplex Newco Limited within their arcade premises and therefore it was necessary to increase the number of Category D machines permitted on the existing machine permit.

Detailed information was circulated to Members prior to the meeting, including an updated site map for the proposed location of machines and the records of training delivered to all staff.

Following further discussion the parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited the parties to return and the Chair then outlined the decision.

Resolved

That the application for a Licensed Premise Gaming Machine Permit for eight, Category C machines, and 25 Category D machines in respect of The Bowlplex, Birmingham Road, Castle Gate Park, Dudley be approved.

Reasons for Decision

This is an application for the grant of a Licensed Premise Gaming Machine Permit for up to eight Category C machines and 25 Category D machines in the Bowlplex premises. The relatively large number of machines requiring a permit is partly a reflection of the changes in the regulations that require previously uncategorised machines to be covered by a permit. Whilst some gaming machines have been reclassified by regulation, Bowlplex had been specifying a number of “player positions” as one gaming machine rather than individual gaming machines, each requiring a gaming permit. They now seek to rectify this previous error in their permit and bring the permit up to date in respect of the reclassification of Category D machines (a single crane machine only in Dudley)

The applicants attended by three members of their management team and Mr Aaron, Solicitor.

The Sub-Committee is satisfied with the proposals put forward by Bowlplex, the site map for the proposed location of machines and the records of training delivered to all staff upon the recent purchase of the new business.

The application is therefore granted.

Application for Grant of a New Premises Licence – Convenience Store, Sedgley Road Filling Station

A report of the Strategic Director Place was submitted on an application for the grant of a new premises licence in respect of the premises known as The Convenience Store, Sedgley Road Filling Station, Sedgley Road, Dudley.

The following persons attended the meeting in respect of this application:-

Mr C Mitchener, Licensing Solutions - Applicant
Councillor D Perks – Ward Member - Objector
Mrs Davies – Resident – Objector
Mr B Cook – Resident - Objector
Mr D Croft – Resident - Observer

Following introductions by the Chair, the Licensing Enforcement Officer presented the report on behalf of the Council. It was noted that objections had been received from four residents and two elected members.

Councillor D Perks then presented his representations and in doing so stated that the premise was predominately a petrol station and did not consider that the sale of shop products outweighed petrol sales. He also stated that there was sufficient provision nearby of off licences and pubs selling alcohol, and that the premise was situated within a residential estate which had already been subjected to anti-social behaviour.

Mrs Davies then presented her representations and in doing so referred to the anti-social behaviour that currently existed, in particular children hanging around the Nature Reserve drinking alcohol and using drug paraphernalia resulting in an increase in litter, including coffee cups that had been purchased from the premises.

Mr Cook during his representations stated that problems in the area had been reported to the Police, and should the application be granted he envisaged that these issues would increase.

Mr Mitchener then presented his case, and in doing so stated that the application submitted was for a new premises licence for the sale of alcohol from 06.00 to 00:00 hrs and late night refreshments from 23:00 to 05:00 hrs, Monday to Sunday inclusive. He stated that there had been no representations submitted by responsible authorities, and that the premises did not sell hot snacks, but required the license to permit the sale of hot coffee.

Mr Mitchener referred to the concerns raised in relation to litter, and suggested that conditions could be added to the licence in particular regarding the sale of hot drinks only, and that all cups should be disposed of into bins provided on the forecourt.

It was noted that the operator was experienced and that there were 391 sites nationally, 380 of which sold alcohol. Although the majority of the sites sold alcohol 24 hours, Mr Mitchener confirmed that this was not requested for the Convenience Store on Sedgley Road.

He also referred to the comments made regarding anti-social behaviour, in particular, although sympathetic to the issues experienced, there was no evidence to support the concerns raised and it could not have been directly linked to the premises as it had not previously sold alcohol. It was also reported that it was unlikely that the issues would increase should the application be granted as the premises would not sell alcohol to any under aged persons.

Mr Mitchener stated that training was delivered on an individual basis with each employee having to complete a written test and achieve a 100% pass prior to authorisation to sell alcohol, each employee would then receive refresher training every three months.

It was further noted that the site was an existing Shell forecourt and shop, which was purchased by his clients and would be re-branded in accordance with the other sites that they operated in a convenience store format. It was noted that since the purchase in October, 2015, shop sales had increased by 37%, based on figures from May 2015.

In responding to a question in relation to the percentage of petrol and non-petrol sales, Mr Mitchener referred to the projected customer flow figures, and that the sales was expected to increase following the rebranding of the premises.

It was noted that the premises operated 24 hours, and although there was currently one member of staff, risk assessments would be taken at the premises to ascertain whether additional staff was required.

In summing up, Councillor D Perks reiterated his previous comments and suggested that should the application be granted then residents could review the footfall at the premises.

In summing up, Mr Mitchener stated that no objections had been submitted by responsible authorities and that the representations made by residents with regards to the premises not being wanted, could not be evidenced, and asked the Sub-Committee for the licence to be granted. Should any problems occur then the premises could be reviewed at a future date.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited the parties to return and the Chair then outlined the decision.

Resolved

That the grant of a premises licence in respect of The Convenience Store, Sedgley Road Filling Station, Sedgley Road, Dudley, be approved, in the following terms: -

Sale of Alcohol

Monday – Sunday 06.00 – 24.00

Late Night Refreshments

Monday – Sunday 23.00 – 05.00

Reasons for Decision

This is an application for the grant of a new premises license at the convenience store, Sedgley Road Filling station.

The applicant is represented Mr Chris Mitchener, Licensing Solutions.

Councillor D Perks and two local residents attended to make representations today. Written representations were received from two ward councillors and a number of local residents.

On behalf of local residents, it was submitted that the premises had always been a petrol station, had always been deemed as such and was far too small to be a convenience store. The two residents attending stated that they used the premises for the odd bottle of milk, and not as a convenience store.

Residents were also concerned that the premises was situated in a residential area, well supplied by public houses (two and a club), and attracted a number of young people to it in any event. One resident gave evidence of noise of shouting at night and excess rubbish (including drug paraphernalia) which neighbours had to collect up afterwards - they currently have to collect up coffee cups from its sale of late night coffee and from people drinking and eating.

The applicant confirmed the hours sought were for alcohol from 6.00am to midnight and late night refreshment from 11pm to 5.00am. It was confirmed that the premises did not sell hot snacks, but required the license to permit the sale of hot coffee. In terms of rubbish, the applicant was content to accept a condition that the sale would be for hot drinks only, and that all cups should be thrown into bins provided on the forecourt. The applicant pointed out that only one representation was made in respect of late night refreshment.

In terms of the sale of alcohol, the applicant stated that it operated a strict age related sale policy, and that there was no evidence to suggest that sale of alcohol to underage persons would be made from these premises, and despite expressed concerns, the police had not made any representations in relation to crime and disorder in this specific area. The applicant highlighted the number of licensed forecourts in the country and within Dudley itself.

The store was taken over in October, 2015, and is to be refitted as a convenience store, but since that point, the sales of non petrol had increased by 37% already based on figures from May 2015, before the store had yet been rebranded. The store currently sells bread and milk. The premises opens 24 hours currently, usually with one member of staff on duty.

The Sub-Committee has not heard any evidence today to suggest that this current premise has been or will be responsible for the sale of alcohol to persons under the age of 18, and it is clear that any current behaviour of an anti-social or drunken nature does not relate to these premises. The Sub-Committee has listened very carefully to the concerns of a number of local residents about the potential for antisocial behaviour and increased littering and drinking if the license is granted. However, the applicant has put forward a strong operating schedule to protect young persons and has volunteered to accept conditions that litter bins will continue to be provided on the forecourt with appropriate signage and to restrict late night refreshment sales to hot drinks only.

The Sub-Committee cannot take into account the number of other alcohol retailers in the area and it notes that the Police have not made any representations about actual or likely crime and disorder or drunkenness from these premises. On this basis the Sub-Committee grants the application for a premises licence as sought, and imposes the two conditions volunteered by the applicant:-

1. The premises shall provide and maintain adequate litter bins on the forecourt with clear signage for all customers to use the bins before leaving the premises.
2. The premises is permitted to sell hot beverages only under its late night refreshment authorisation.

The meeting ended at 12.20pm.

CHAIR

Licensing Sub-Committee 3 – 22nd 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 8th February 2013, that licence was subsequently varied on the 13th August 2015, the current licence is issued as follows:

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

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

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 25th 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 22nd March 2016.
7. Following receipt of the application on the 29th 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 22nd 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

Contact Officer: Mrs L Rouse
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Email: liz.rouse@dudley.gov.uk

List of Background Papers

none

DUDLEY METROPOLITAN BOROUGH COUNCIL

www.dudley.gov.uk

REVIEW OF PREMISES LICENCE
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to Rock Zombie,
Plaza Malls, King Street, Dudley, DY2 8NZ.

Interested parties and relevant authorities may make representations in writing to the Licensing Office, Unit 1 Narrowboat Way, Hurst Business Park, Brierley Hill, West Midlands, DY5 1UF between 26th February 2016 and 11th March 2016

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

- Prevention of crime and disorder

The details of the grounds for review may be inspected at the Licensing Offices (address as above) between the hours of 08.30 am and 4.00pm (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.



A Lunt
Strategic Director Place