

## **Licensing Sub-Committee 1**

**Tuesday, 12<sup>th</sup> April, 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 8<sup>th</sup> March, 2016 as a correct record
5. Application for a Licensed Premises Gaming Machine Permit – The Old White Horse Inn, South Road, Stourbridge (Pages 1 – 5)
6. Application for a Licensed Premises Gaming Machine Permit – The Meadow Lark, Dibdale Road, Dudley (Pages 6 – 10)
7. Application for Review of Premises Licence – Premier (AKA Brockmoor Convenience Store), 49 High Street, Brockmoor, Brierley Hill (Pages 11 – 21)



**Strategic Director Resources and Transformation**

**Dated: 23<sup>rd</sup> March, 2016**

**Distribution:**

Councillor D Russell (Chair); Councillors C Elcock and C Perks

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**Minutes of the Licensing Sub-Committee 1**

**Tuesday 8<sup>th</sup> March, 2016 at 10.00 am**  
**in the Council Chamber, The Council House, Dudley**

**Present:-**

Councillor D Russell (Chair)  
Councillors C Elcock and C Perks

**Officers:-**

T Holder (Solicitor – Resources and Transformation Directorate),  
S Smith (Interim Licensing Manager – Place Directorate) and M Johal  
(Democratic Services Officer – Resources and Transformation Directorate).

28      **Declarations of Interest**

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

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29      **Minutes**

**Resolved**

That the minutes of the meeting of the Sub-Committee held on 29<sup>th</sup>  
December, 2015, be approved as a correct record and signed.

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30      **Application for Review of Premises Licence – Wallbrook Mini Market,  
Wallbrook Street, Coseley**

A report of the Strategic Director Place was submitted on an application for  
a review of the premises licence in respect of Wallbrook Mini Market,  
Wallbrook Street, Coseley.

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

Mrs K K Sidhu – Premises Licence Holder  
Mr G Wintrip – Trading Standards  
Ms D McNulty – Public Health  
PC Baldwin – West Midlands Police  
PC K Turley – West Midlands Police  
PCSO C Langford – West Midlands Police

Following introductions, the Interim Licensing Manager presented the report on behalf of the Council.

Mr Wintrip then presented the facts of the case relating to the prevention of crime and disorder and the protection of children from harm under the Licensing Act 2003 which had resulted in the application being made for a review of the premises. It was explained that on 30<sup>th</sup> September, 2015, a male child test purchaser, aged fifteen years old was sold alcohol, namely four cans of Foster's Lager from the premises, which was contrary to Section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives. The Sub-Committee were informed that several other test purchases had previously been conducted by Dudley Trading Standards and there had been no issues. Further details were given on the history of interventions by Trading Standards and in conclusion it was suggested that should the Sub-Committee be minded not to revoke or suspend the licence consideration be given to imposing conditions to the licence.

Ms McNulty commented on the impact on health in adolescents as a consequence of alcohol consumption and it was considered that the sale of alcohol to young people was a serious matter. Any actions to prevent the sale of alcohol to a young person on the grounds of protecting children from harm were entirely supported.

PC Baldwin informed the meeting that police system checks had revealed that the premises licence holder had logged a call with the police in August, 2015 to report a vehicle that had driven past the premises and had fired a shot smashing the shop window. Although the police have had no other calls relating to the premises, the local Neighbourhood Team had concerns about anti social behaviour in the vicinity. PCSO Langford then reported that a large group of youths (friends of Mrs Sidhu's son) congregated around the premises and complaints had been made from intimidated residents.

In presenting her case, Mrs Sidhu explained that at the time of the incident she was managing her fish and chip shop next door. She explained that her daughter had been distracted when making the illegal sale during the test purchase. With regard to correspondence sent to her Mrs Sidhu indicated that she had not received the second letter sent in December and she had not responded to the first letter as she could not locate her Certificate for including in the response. Mrs Sidhu confirmed that there were a large number of youths congregating in the vicinity of the premises and although Mrs Sidhu and her son had spoken to them on a number of occasions they still continued to return. .

In responding to questions Mrs Sidhu confirmed that her daughter had not had any official training and she under the impression that as Mrs Sidhu had provided training to her daughter this would suffice as she was a family member. Mrs Sidhu stated that she was not the Designated Premises Supervisor and she was not aware of any requirements in relation to this.

The Interim Licensing Manager confirmed that the previous owner was still the Designated Premises Supervisor. PC Baldwin advised that premises could have a registered Designated Premises Supervisor even if they lived in another part of the country.

Upon further questioning Mrs Sidhu stated that she had two businesses, had four children, her husband had passed away in 2014, all of her children worked and she and her younger daughter were responsible for running the businesses. Mrs Sidhu confirmed that the opening hours for the mini market were from 1pm until 9pm and the chip shop from 4pm – 9 pm. Mrs Sidhu's daughter was mainly managing the mini market whilst Mrs Sidhu ran the chip shop. She confirmed that there was no licence on display at the mini market. Mrs Sidhu stated that she would be selling the mini market if she was offered a decent price for it and then retain and continue to manage the chip shop as it was a more profitable business. The Refusals Register was circulated to the Sub-Committee and Mrs Sidhu answered queries relating to the entries and discrepancies with dates.

Mrs Sidhu confirmed that she had had a fair hearing and the parties then withdrew from the meeting 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, following consideration of the information contained in the report submitted and presented at the meeting the premises licence in respect of Wallbrook Mini Market, Wallbrook Street, Coseley, be suspended for a period of three months.

The applicant was informed on her right of appeal.

### Reasons for Decision

We are here today to hear a review of premises known as Wallbrook Mini Market. We have heard from Trading Standards, the Police and Public Health. This matter was brought before the Sub-Committee because of an underage sale that took place on 30<sup>th</sup> September, 2015. On hearing the evidence today from all parties (including Mrs Sidhu, the Premises Licence Holder), the Sub-

Committee are very concerned about the management of these premises, namely:-

- (1) The Designated Premises Supervisor has no involvement in the running of the premises
- (2) The premises licences are not displayed
- (3) The only member of staff is not properly trained
- (4) There is no till prompt
- (5) The Premises Licence Holder did not respond to correspondence
- (6) No evidence of CCTV
- (7) The only person with Licensing training does not work on the premises
- (8) No adequate use of Refusals Register

The Sub-Committee are also concerned about the congregation of youths outside the premises.

The Sub-Committee has therefore decided that the premises licence shall be suspended for a period of three months.

The premises licence holder shall also implement the following ten conditions as detailed on the letter sent to her on 3<sup>rd</sup> December, 2015:-

- (1) A written Proof of Age Policy (Challenge 25) is to be put in force, which all staff authorised to sell alcohol will be trained in and adhere to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age Standards Scheme (PASS) proof of age card such as Citizen Card. No other form of identification shall be accepted. A4 notices will be displayed on the door and near to the point of sale advertising this policy.
- (2) A4 notices to be displayed on the door to the premises and near the point of sale stating that it is an offence to buy alcohol for persons under the age of 18.
- (3) A Register of Refusals of Sale of Alcohol which indicates the date, time and reason for refusal will be operated and maintained at the premises. The Premises Licence Holder shall review the book once a week ensuring it is completed and up-to-date. The Premises Licence Holder will sign the book each time it is checked. This book shall be made available for inspection by an officer of any responsible authority.

- (4) CCTV to be in place at the premises and to be recording at all times when the premises are open for licensable activity, to the specifications of the West Midlands Police Crime Reduction Officer so that the alcohol display area and the point of sale area can be viewed. All images are to be recorded and kept for a minimum of 28 days and made available to any responsible authority upon request immediately, and all staff are to be trained and able to operate and download CCTV. The hard drive is to be locked but readily accessible to staff.
- (5) The Premises License Holder will take proportionate steps to review the premises' CCTV on a weekly basis in order to identify persons under the age of 18 who are attempting to buy alcohol or persons over the age of 18 buying on their behalf. A record of these checks shall be maintained and be available for inspection upon request by an officer of any responsible authority.
- (6) All persons engaged to sell alcohol must complete a training programme, which includes a written test to verify the competency of that person prior to them being authorised to sell alcohol.
- (7) The premises licence holder shall ensure that monthly reviews are conducted with any persons authorised to sell alcohol in order to reinforce training, promote best practice and policy. The monthly reviews will be recorded in writing.
- (8) A file shall be maintained at the premises for each person authorised to sell alcohol (with proof of identity which will be a copy of passport and/or driving licence). This file shall contain all training records for each person along with copies of monthly reviews as stated in point 7. This file shall be made available for inspection by any officer from a responsible authority upon request.
- (9) Any person who is suspected of purchasing alcohol for any person under age, shall be refused service.
- (10) An Electronic Point of Sale (EPOS) system will be installed and used at the premises. The system will be used to scan all Age Restricted Products and prompt the staff to confirm that the buyer of any such product is over the age of 18 years before any sale of such goods can be completed.

We also require that the staff in the premises are trained appropriately and able to assume the role of Designated Premises Supervisor.

We have taken into account your previous good record in arriving at the decision.

The meeting ended at 11.50 pm

CHAIR

**Licensing Sub-Committee 1 – 12<sup>th</sup> April 2016.**

**Report of the Strategic Director Place**

**Application for a Licensed Premises Gaming Machine Permit**

**Purpose of Report**

- To consider the application for the grant of a Licensed Premise Gaming Machine Permit for 2, Category C machines, and 1 Category D machine in respect of the premises known as The Old White Horse Inn, South Road, Stourbridge, West Midlands.

**Background**

- The Old White Horse Inn holds a current premises licence for the following:-

<b>Films</b>	<b>Monday to Sunday</b>	<b>10:00</b>	<b>00:00</b>
<b>Indoor Sporting Events</b>	<b>Monday to Sunday</b>	<b>10:00</b>	<b>00:00</b>
<b>Live Music</b>	<b>Monday to Sunday</b>	<b>10:00</b>	<b>00:00</b>
<b>Live Music</b>	<b>From end of permitted hours on New year's Eve until end of permitted hours on New Year's Day</b>		
<b>Recorded Music</b>	<b>Monday to Sunday</b>	<b>10:00</b>	<b>00:00</b>
<b>Recorded Music</b>	<b>From end of permitted hours on New year's Eve until end of permitted hours on New Year's Day</b>		
<b>Performance of Dance</b>	<b>From end of permitted hours on New years Eve until end of permitted hours on New Years Day</b>		
<b>Performance of Dance</b>	<b>Monday to Sunday</b>	<b>10:00</b>	<b>00:00</b>
<b>Facilities for</b>	<b>From end of permitted hours on New</b>		

<b>Music</b>	<b>year's Eve until end of permitted hours on New Years Day</b>		
<b>Facilities for Music</b>	<b>Monday to Sunday</b>	<b>10:00</b>	<b>00:00</b>
<b>Facilities for Dance</b>	<b>From end of permitted hours on New years Eve until end of permitted hours on New Years Day</b>		
<b>Late Night Refreshment</b>	<b>Monday to Sunday</b>	<b>23:00</b>	<b>00:00</b>
<b>Supply of Alcohol</b>	<b>Monday to Sunday</b>	<b>10:00</b>	<b>00:00</b>
<b>Supply of Alcohol</b>	<p><b>From end of permitted hours on New years Eve until end of permitted hours on New Years Day</b></p> <p><b>Non-standard timings</b>  <b>Additional hours are to be permitted for all the licensable activities (not including drinking up time) 1st January 1 hour, Valentines Night 1 hour, Burns Night 1 hour, 1st March (St.Davids) 1 hour, 17th March (St.Patricks) 1 hour, Good Friday 1 hour, Easter Saturday 1 hour, Easter Sunday 1 hour, Easter Monday 1 hour, May Bank Holiday (1st) Friday prior 1 hour, May Bank Holiday (1st) Saturday prior 1 hour, May Bank Holiday (1st) Sunday prior 1 hour, May Bank Holiday (1st) Bank Holiday Monday 1 hour, May Bank Holiday (2nd) Friday prior 1 hour, May Bank Holiday (2nd) Saturday prior 1 hour, May Bank Holiday (2nd) Sunday prior 1 hour, May Bank Holiday(2nd) Bank Holiday Monday 1 hour, August Bank Holiday Friday prior 1 hour, August Bank Holiday Sat. prior 1 hour, August Bank Holiday Sunday prior 1 hour, August Bank holiday Monday 1 hour, Halloween 1 hour, Christmas Eve 2 hours, Boxing Day 1 hour, 27th December 1 hour, 28th December 1 hour, 30th December 1 hour.</b></p>		

3. The Local Authority licensing policy states as follows:-

- If authorisation is sought for more than two category C or D machines the applicant will be required to attend a hearing to support the application. All plans submitted with applications for premises licences must set out the siting of each Category C or D machine.
  - Parliament has placed no restrictions on the age at which such machines may be played (other than those in amusements arcades). It is, therefore, a matter for the discretion of the premises licence holder and any adults accompanying the children concerned whether they are entitled to play such machines. In the case of premises used exclusively or primarily for the consumption of alcohol, all children under the age of 16 will only be permitted entry to the premises if accompanied by adults. All such machines must be sited in accordance with the Gaming Act, further advice will be given on receipt of application.
  - There is unlikely to be the need for a hearing where the application is for renewal of the existing permit for more than two machines or where the application is for the grant of a Licensed Premises Gaming Machine Permit at premises which already have an existing permit for more than two machines, and where that number is not increased.
4. On 8<sup>th</sup> February 2016, Poppleston Allen Solicitors, made application on behalf of The Old White Horse Inn for the grant of a licensed premises Gaming Machine Permit for 2 Category C machines and 1 Category D machine. A site plan was also received on the 18<sup>th</sup> February 2016 highlighting the proposed position of all 3 machines. The application together with the site plan has been circulated to Committee Members and interested parties.
  5. The current licence holder of the premises licence is Mitchells & Butler Retail Limited, the premises currently holds a notification for up to 2 machines.
  6. 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**

7. There are no financial implications.

### **Law**

8. Pursuant to schedule 13, section 283 of the Gaming Act 2005 the Council can grant a licensed premises gaming machine permits.
9. Pursuant to schedule 13, section 283 4(2) on considering an application for a permit the Licensing Authority shall:-
  - (a) grant an application
  - (b) refuse the application, or
  - (c) grant it in respect of:-

- (i) a smaller number of machines than that specified in the application
- (ii) a different category of machines from that specified in the application, or
- (iii) both

10. Pursuant to schedule 13, section 283 5

- (1) A Licensing Authority may not attach conditions to a permit
- (2) As soon as is reasonably practicable after granting an application a Licensing Authority shall issue a permit to the applicant.

11. Pursuant to schedule 13, section 283 5(3) as soon as it reasonably practicable after refusing an application a Licensing Authority shall notify the applicant of:-

- (a) the refusal, and
- (b) the reasons for it

12. In pursuance of schedule 13, section 283 6 (2) a Licensing Authority may not refuse an application, or grant an application in respect of a different category or smaller number of gaming than that specified in the application, unless they have

- (a) notified the applicant of their intention to refuse or grant the application in respect of
  - (i) a smaller number of machines than that specified in the application
  - (ii) a different category of machines than that specified in the application or
  - (iii) both, and
- (b) given the applicant an opportunity to make representations

13. In pursuance of schedule 13 section 283 6 (3) a Licensing Authority can satisfy the opportunity to make representations by giving the applicant an opportunity to make:-

- (a) oral representations
- (b) written representations, or
- (c) both

14. In pursuance of schedule 13 section 283 21 (1) the applicant for a holder of a permit may appeal to the Magistrates Court if the Licensing Authority:-
- (a) reject an application for a permit
  - (b) grant an application for a permit in respect of a smaller number of machines than that specified in the application or a different category of machines from that specified in the application.

### **Equality Impact**

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

### **Recommendation**

18. That the Sub-Committee give consideration to this application.



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**Strategic Director Place**

Contact Officer: Mrs L Rouse  
Telephone: 01384 815377  
Email: [liz.rouse@dudley.gov.uk](mailto:liz.rouse@dudley.gov.uk)

### **List of Background Papers**

None

**Licensing Sub-Committee 1 – 12<sup>th</sup> April 2016**

**Report of the Strategic Director Place**

**Application for a Licensed Premises Gaming Machine Permit**

**Purpose of Report**

1. To consider the application for the grant of a Licensed Premise Gaming Machine Permit for 4, Category C machines, and 1 Category D machine in respect of the premises known as The Meadow Lark, Dibdale Road, Dudley, West Midlands.

**Background**

2. The Meadow Lark holds a current premises licence for the following:-

Films	Mondays to Sundays	10:00	00:00
Films	From the start of permitted hours on New Years Eve until the terminal hour on New Years Day		
Films	Plus non-standard timings as for the sale of alcohol		
Indoor Sporting Events	Mondays to Sundays	10:00	00:00
Indoor Sporting Events	From the start of permitted hours on New Years Eve until the terminal hour on New Years Day		
Indoor Sporting Events	Plus non-standard timings as for the sale of alcohol		
Live Music	Mondays to Sundays	10:00	00:00
Live Music	From the start of permitted hours on New Years Eve until the terminal hour on New Years Day		
Live Music	Plus non-standard timings as for the sale of alcohol		

Recorded Music	Permitted 24 hours a day pursuant to section 182 Licensing Act 1964		
Late Night Refreshment	Mondays to Sundays	23:00	00:00
Late Night Refreshment	From the start of permitted hours on New Years Eve until the terminal hour on New Years Day		
Late Night Refreshment	Plus non-standard timings as for the sale of alcohol		
Supply of Alcohol	Mondays to Sundays	10:00	00:00
	From the start of permitted hours on New Years Eve until the terminal hour on New Years Day		
Supply of Alcohol	Non-standard timings On the days listed below not including drinking up time		
Supply of Alcohol	1 <sup>st</sup> January 1 hr, Valentines Night 1 hr, Burns Night 1 hr, 1 <sup>st</sup> March (St Davids) 1 hr, 17 <sup>th</sup> March (St Patricks) 1 hr, Good Friday 1 hr, Easter Saturday 1 hr, Easter Sunday 1 hr, Easter Monday 1 hr, May Bank Holiday (1 <sup>st</sup> ) Friday Prior 1 hr, May Bank Holiday (1 <sup>st</sup> ) Saturday Prior 1 hr, May Bank Holiday (1 <sup>st</sup> ) Sunday Prior 1 hr, May Bank Holiday (1 <sup>st</sup> ) Bank Holiday Monday 1 hr, May Bank Holiday (2 <sup>nd</sup> ) Friday Prior 1 hr, May Bank Holiday (2 <sup>nd</sup> ) Saturday Prior 1 hr, May Bank Holiday (2 <sup>nd</sup> ) Sunday Prior 1 hr, May Bank Holiday (2 <sup>nd</sup> ) Bank Holiday Monday 1 hr, August Bank Holiday Friday Prior 1 hr, August Bank Holiday Sat Prior 1 hr, August Bank Holiday Sunday Prior 1 hr, August Bank Holiday Monday 1 hr, Halloween 1 hr, Christmas Eve 2 hrs, Boxing Day 1 hr, 27 <sup>th</sup> December 1 hr, 28 <sup>th</sup> December 1 hr, 30 <sup>th</sup> December 1 hr.		

3. The Local Authority licensing policy states as follows:-

- If authorisation is sought for more than two category C or D machines the applicant will be required to attend a hearing to support the

application. All plans submitted with applications for premises licences must set out the siting of each Category C or D machine.

- Parliament has placed no restrictions on the age at which such machines may be played (other than those in amusements arcades). It is, therefore, a matter for the discretion of the premises licence holder and any adults accompanying the children concerned whether they are entitled to play such machines. In the case of premises used exclusively or primarily for the consumption of alcohol, all children under the age of 16 will only be permitted entry to the premises if accompanied by adults. All such machines must be sited in accordance with the Gaming Act, further advice will be given on receipt of application.
  - There is unlikely to be the need for a hearing where the application is for renewal of the existing permit for more than two machines or where the application is for the grant of a Licensed Premises Gaming Machine Permit at premises which already have an existing permit for more than two machines, and where that number is not increased.
4. On 8<sup>th</sup> February 2016, Poppleston Allen Solicitors, made application on behalf of Mitchells & Butler Leisure Retail Limited for the grant of a licensed premises Gaming Machine Permit for 4 Category C machines and 1 Category D machine. A site plan was also received on the 18<sup>th</sup> February 2016 highlighting the proposed position of all 5 machines. The application together with the site plan has been circulated to Committee Members and interested parties.
  5. The current licence holder of the premises licence is Mitchells & Butler Retail Limited, the premises currently holds a permit for 3 Category C machines and 1 Category D machine.
  6. 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**

7. There are no financial implications.

### **Law**

8. Pursuant to schedule 13, section 283 of the Gaming Act 2005 the Council can grant a licensed premises gaming machine permits.
9. Pursuant to schedule 13, section 283 4(2) on considering an application for a permit the Licensing Authority shall:-
  - (a) grant an application
  - (b) refuse the application, or
  - (c) grant it in respect of:-

- (i) a smaller number of machines than that specified in the application
- (ii) a different category of machines from that specified in the application, or
- (iii) both

10. Pursuant to schedule 13, section 283 5

- (1) A Licensing Authority may not attach conditions to a permit
- (2) As soon as is reasonably practicable after granting an application a Licensing Authority shall issue a permit to the applicant.

11. Pursuant to schedule 13, section 283 5(3) as soon as it reasonably practicable after refusing an application a Licensing Authority shall notify the applicant of:-

- (a) the refusal, and
- (b) the reasons for it

12. In pursuance of schedule 13, section 283 6 (2) a Licensing Authority may not refuse an application, or grant an application in respect of a different category or smaller number of gaming than that specified in the application, unless they have

- (a) notified the applicant of their intention to refuse or grant the application in respect of
  - (i) a smaller number of machines than that specified in the application
  - (ii) a different category of machines than that specified in the application or
  - (iii) both, and
- (b) given the applicant an opportunity to make representations

13. In pursuance of schedule 13 section 283 6 (3) a Licensing Authority can satisfy the opportunity to make representations by giving the applicant an opportunity to make:-

- (a) oral representations
- (b) written representations, or
- (c) both

14. In pursuance of schedule 13 section 283 21 (1) the applicant for a holder of a permit may appeal to the Magistrates Court if the Licensing Authority:-
- (a) reject an application for a permit
  - (b) grant an application for a permit in respect of a smaller number of machines than that specified in the application or a different category of machines from that specified in the application.

### **Equality Impact**

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

### **Recommendation**

18. That the Sub-Committee give consideration to this application.



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**Strategic Director Place**

Contact Officer: Mrs L Rouse  
Telephone: 01384 815377  
Email: [liz.rouse@dudley.gov.uk](mailto:liz.rouse@dudley.gov.uk)

### **List of Background Papers**

None

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**Licensing Sub-Committee 1 – 12<sup>th</sup> April 2016**

**Report of the Strategic Director Place**

**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 Premier (AKA Brockmoor Convenience Store), 49 High Street, Brockmoor, Brierley Hill, West Midlands.

**Background**

2. Premier (AKA Brockmoor Convenience Store) formerly known as Stars News Shop was first issued with a premises licence on the 9<sup>th</sup> September, 2005, that licence was transferred on the 23<sup>rd</sup> July, 2008 into the name of Midlands Counties Co-Operative Ltd. on the 16<sup>th</sup> August, 2011 into the name of News Shop Express Ltd., and again on the 20<sup>th</sup> March, 2013 into the name of Mr J P Chand.
3. The current premises licence is issued for the following:-

Sale of Alcohol	Monday to Saturday	08.00 – 23.00
	Sundays	10.00 – 22.30
	Good Friday	08.00 – 22.30
	Christmas Day	12.00 – 15.00
	Christmas Day	19.00 – 22.30
4. On the 6<sup>th</sup> November, 2013, an application for the review of the premises licence was received from the Trading Regulation and Enforcement Manager.
5. This matter was considered by the Licensing Sub-Committee 1 on the 7<sup>th</sup> January 2014, the Committee resolved that subject to conditions being applied to the premises licence, that no further action be taken in relation to the review of the premises licence. A copy of the minutes in respect of that meeting are attached to this report as appendix 1.
6. On the 17<sup>th</sup> February 2016, a further application for the review of the premises licence was received from the Public Protection Manager (Food & Consumer Safety). A copy of that application has been circulated to Committee Members and interested parties in accordance with the Licensing Act 2003.

7. 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 2.
8. On the 22<sup>nd</sup> February 2016, the Office of Public Health made comments, also on the 1<sup>st</sup> March 2016, the West Midlands Police made comments, copies of which have been circulated to the premises licence holder and Committee Members in accordance with the Licensing Act 2003.
9. The current premises licence holder is Mr. John P. Chand.
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 appropriate 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 Premier AKA Brockmoor Convenience Store, 49 High Street, Brockmoor, Brierley Hill, West Midlands, DY5 3HY



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STRATEGIC DIRECTOR PLACE

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### **List of Background Papers**

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41      APPLICATION FOR REVIEW OF PREMISES LICENCE –  
BROCKMOOR CONVENIENCE STORE / PREMIER, 49 HIGH  
STREET, BROCKMOOR, BRIERLEY HILL

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Brockmoor Convenience Store / Premier, 49 High Street, Brockmoor, Brierley Hill.

Mr J Chand, Premises Licence Holder and Designated Premises Supervisor was in attendance at the meeting.

Also in attendance were Mr C King, Trading Standards Officer, and Mr G Wintrip, Age Restricted Products Enforcement Officer, both from the Directorate of the Urban Environment and Ms D McNulty, Office of Public Health.

Following introductions by the Chair, the Licensing Clerk then presented the report on behalf of the Council.

Mr King then presented the representations of Trading Standards and in doing so highlighted that the grounds of the review had been based on the serious undermining of the two licensing objectives, namely, the prevention of crime and disorder and the protection of children from harm due to the poor management of the premises following the sale of alcohol to a person under the age of eighteen.

Mr King informed the Sub-Committee that on 2<sup>nd</sup> October, 2013, a fifteen year old female child test purchaser had been sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

On 28<sup>th</sup> February, 2013, an advisory visit was carried out at the premises, the purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mr Chand, who was present at the time, was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Chand was also provided with an information pack that included an advice booklet, a Challenge 25 poster, a refusals register, a poster about proof of age and a sample Proof of Age Standards Scheme card. He was also requested to ensure that it was brought to the attention of all staff to ensure that they were aware of their obligations under the Licensing Act 2003, Mr Chand also signed an ARP form 0806 to acknowledge receipt of the information pack during the visit.

Mr King further stated that on 2<sup>nd</sup> October, 2013, Trading Standards together with West Midlands Police, carried out a test purchase exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a fifteen year old female child test purchase volunteer purchased a bottle of VK Tropical with 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer, and did not ask for identification.

Following the sale, and having returned to the premises, it was discovered that the individual who sold the alcohol to the test purchaser had been a Ms J Kiszka. When questioned, Ms Kiszka admitted making the sale.

On inspection of the premises, it was noted that there were no Age Restricted Products displayed, and when Mr Chand returned to the premises shortly after the sale had been made, he reported that refusals were recorded electronically on the till register. Ms Kiszka was then issued with a Fixed Penalty Notice.

In concluding, Mr King stated that should the Sub-Committee be minded not to revoke or suspend the premises licence, they could consider including additional conditions to the licence. A full list of the proposed conditions had been circulated to all parties prior to the meeting.

LSBC1/69

Ms McNulty then presented the representations of Public Health, which had been circulated to all parties in accordance with the Licensing Act 2003. She made particular reference to the number of well-documented impacts on the health of adolescents as a consequence of alcohol consumption.

It was noted that in the opinion of Ms McNulty, the sale of alcohol to underage young people was considered to be very serious and supported the recommendations made by Trading Standards.

Mr Chand then presented his case and in doing so informed the Sub-Committee that he accepted the evidence presented by Trading Standards, and the potential health consequences of underage alcohol sales. He stated that he had been in a management position over the last five years, over twenty premises, and he had taken the matter very seriously.

He further stated that Ms Kiszka was employed on a eight day trial for a management position, however following the sale of alcohol to a child on 2<sup>nd</sup> October, 2013 he was not satisfied with Ms Kiszka's attitude or explanation for the sale. It was noted that Ms Kiszka's contract was terminated.

Reference was made to there being no age restricted product posters displayed at the time of the sale; Mr Chand stated that the shop had recently undergone refurbishment due to water damage, and as a result, the underage sales posters were not displayed. This has now been resolved.

Mr Chand referred to the refusals register and explained that although refusals were entered electronically on the till register, they could not be printed out. He stated that the registers had been recently upgraded to allow a print out of sales with reasons for refusals.

It was further noted that following the sale on 2<sup>nd</sup> October, 2013, Mr Chand re-trained his employees, and requested that they question customers that appeared to be in their late twenty's.

In responding to a question by Mr King, Mr Chand confirmed that he worked at the premises on evenings and for the majority of the day, and on the day of the sale he had attended another premises to deal with an issue, and believed Ms Kiszka to be suitable to manage the premises in his absence.

In responding to a question by the Chair, Mr Chand confirmed that he was in agreement with the conditions suggested by Trading Standards, and that he had paid the fixed penalty notice issued by officers.

In summing up, Mr Chand stated that this was the first occasion he had attended a Sub-Committee and that the sale highlighted problems with Ms Kiszka, which resulted in her contract being terminated.

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, subject to the following conditions being applied to the premises licence, no further action to be taken in relation to the review of the premises licence in respect of Brockmoor Convenience Store / Premier, 49 High Street, Brockmoor, Brierley Hill: -

#### Conditions

- (1) A written Proof of Age Policy (Challenge 25) is to be put in force, which all staff authorised to sell alcohol will be trained in and adhere to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age standards Scheme (PASS) proof of age card such as Citizen card. No other form of identification shall be accepted.
- (2) A4 notices to be displayed on the door to the premises and near the point of sale stating that it is an offence to buy alcohol for persons under the age of 18.
- (3) A Register of Refusals of Sale of Alcohol which indicates the date, time and reason for refusal will be operated and maintained at the premises. The Premises Licence Holder shall review the book once a week ensuring it is completed and up-to-date. The Premises Licence Holder will sign the book each time it is checked. This book shall be made available for inspection by an officer of any responsible authority.

- (4) CCTV to be in place at the premises and to be recording at all times when the premises are open for licensable activity, to the specifications of the West Midlands Police Crime Reduction Officer so that the alcohol display area and the point of sale area can be viewed. All images are to be recorded and kept for a minimum of 28 days and made available to any responsible authority upon request immediately, and all staff are to be trained and able to operate and download CCTV. The hard drive is to be locked but readily accessible to staff.
- (5) The Premises Licence Holder will take proportionate steps to review the premises CCTV on a weekly basis in order to identify persons under the age of 18 who are attempting to buy alcohol or persons over the age of 18 buying on their behalf. A record of these checks shall be maintained and be available for inspection upon request by an officer of any responsible authority.
- (6) All persons engaged to sell alcohol must complete a training programme, which includes a written test, to verify the competency of that person prior to them being authorised to sell alcohol.
- (7) The premises licence holder shall ensure that monthly reviews are conducted with any persons authorised to sell alcohol in order to reinforce training, promote best practice and policy. The monthly reviews will be recorded in writing.
- (8) A file shall be maintained at the premises for each person authorised to sell alcohol (with proof of identity which will be a copy of passport and/or driving licence). This file shall contain all training records for each person along with copies of monthly reviews as stated in point 7. This file shall be made available for inspection by any officer from a responsible authority upon request.
- (9) Any person who is suspected of purchasing alcohol for any person under the age of 18, shall be refused service.

#### REASONS FOR DECISION

This is a review of a premises licence as a result of a sale of alcohol to a fifteen year old test purchaser, by a Ms J Kiszka, an employee at Brockmeor Convenience Store / Premier. Ms Kiszka admitted the sale and accepted a fixed penalty notice. The test purchase took place on 2<sup>nd</sup> October, 2013.

LSBC1/72

Mr J Chand attended the Sub-Committee. He is the Premises Licence Holder and Designated Premises Supervisor. He accepted that at the time of the sale, there were no age restricted product posters on display, despite advice being provided to Mr Chand by Trading Standards on 28<sup>th</sup> February, 2013.

Mr Chand accepts the evidence presented by Trading Standards, and accepts the potential health consequences of underage alcohol sales.

Ms Kiszka, at the time of the test purchase, was on an eight day trial. Mr Chand was not satisfied regarding her explanation for the sale, and her employment has been terminated.

The shop has recently undergone refurbishment due to water damage, and as a result, the underage sales poster was no longer up. This has now been rectified.

At the time of the sale, the refusals of sale were registered on the tills, but could not be printed out. The tills have been upgraded to allow a print out of sales with reasons for refusals. He told the Sub-Committee that he was very sorry for the failed purchase.

Mr Chand accepts the conditions put forward by Trading Standards. The Sub-Committee finds that the imposition of these conditions does address this under age sale, and are a proportionate step to address the issues arising in this case. It therefore imposes the conditions on the premises licence, and takes no further steps today.

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The meeting ended at 2.20 pm

CHAIR

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 Premier (AKA Brockmoor Convenience Store) 49 High Street, Brockmoor, Brierley Hill, DY5 3HY.

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 17<sup>th</sup> February 2016 and 15<sup>th</sup> March 2016

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 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