

Licensing Sub-Committee 1

**Tuesday, 15th September, 2015 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 30th June, 2015 as a correct record
5. Application for Review of Premises Licence – Bill's General Store, Wellington Road, Dudley
6. Application to Vary a Premises Licence to Specify an Individual as a Designated Premises Supervisor – The Rising Sun, Coseley
7. Application for the Renewal of Consent to Engage in Street Trading – LSD Promotions Ltd – Food/Craft Market, Ryemarket, Stourbridge



Strategic Director (Resources and Transformation)

Dated: 28th August, 2015

Distribution:

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

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- The Democratic Services contact officer for this meeting is Karen Taylor, Telephone 01384 818116 or E-mail karen.taylor@dudley.gov.uk

Minutes of the Licensing Sub-Committee 1

Tuesday 30th June, 2015 at 10.00 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor D Russell (Chair)
Councillors C Elcock and P Miller

Officers:-

N Bangar (Legal Advisor), L Rouse (Licensing Clerk) and M Johal (Democratic Services Officer) – All Directorate of Resources and Transformation.

1 **Apology for Absence**

An apology for absence from the meeting was received on behalf of Councillor C Perks.

2 **Appointment of Substitute Member**

It was reported that Councillor P Miller had been appointed as a substitute Member for Councillor C Perks for this meeting of the Sub-Committee only.

3 **Declarations of Interest**

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

4 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 12th May, 2015, be approved as a correct record and signed.

5 **Change in Order of Business**

Pursuant to Council Procedure Rule 13(c) it was:-

Resolved

That agenda item Nos 8 (Resolution to exclude the public and press) and 9 (Application for a Personal Licence – Ms LME) be considered as the next items of business.

6 **Exclusion of the Public**

Resolved

That the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information relating to an individual as defined under Part I of Schedule 12A to the Local Government Act 1972, as amended.

7 **Application for a Personal Licence – Ms LME**

A report of the Strategic Director (Resources and Transformation) was submitted on an application for the grant of a personal licence in respect of Ms LME.

Ms LME was not in attendance for consideration of her application.

PC Baldwin – West Midlands Police attended the meeting in respect of this application and informed the meeting on the number, nature and timeliness of convictions relating to Ms LME which had not been disclosed in her application.

PC Baldwin then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

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

Resolved

That, following careful consideration of the information contained in the report submitted, and as reported at the meeting, the application for the grant of a personal licence to Ms LME be refused on the basis of her failure to declare the relevant convictions, caution and the pattern of conduct evidenced by these convictions.

Application for Review of Premises Licence – Thornhill News

A report of the Strategic Director (Resources and Transformation) was submitted on an application for the review of the premises licence in respect of Thornhill News, 39 Thornhill Road, Halesowen.

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

Mrs K Pank – Premises Licence Holder and Mr K S Pank (spouse)
Mr C King – Trading Standards
Ms D McNulty – Public Health

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

Mr King then presented the facts of the case and explained that the current premises licence was granted to Mrs K Pank on 1st July, 2005. Following an underage sale of alcohol on 12th March, 2014, the Premises Licence was reviewed on 13th May, 2014 and the licence was amended with a number of conditions attached. Mrs Pank is also the Designated Premises Supervisor and holds a personal licence issued by Dudley Metropolitan Borough Council. On 29th April, 2015, Trading Standards officers carried out a test purchase at the premises and on this occasion a sixteen year old male child test purchase volunteer purchased a can of Desperados beer with 5.9% alcohol by volume. The seller made no attempt to ask the age of the volunteer, or for I.D. (Identification). On returning to the premises, the individual who sold the alcohol to the test purchase volunteer was identified as Mr K S Pank. On inspection of the premises, it was established that apart from the statutory Tobacco Notice Age no other age restricted product literature was displayed. Officers from the Council's Licensing section visited the premises on 30th April, 2015 and found that a number of the conditions imposed by the Licensing Committee on 13th May, 2014 were not being complied with. These were notably the lack of any training records, no Challenge 25 posters displayed, no record that the Premises Licence Holder had reviewed the Closed Circuit Television (CCTV) on a weekly basis and no training programme undertaken by those authorised to sell alcohol.

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.

Mr and Mrs Pank then presented their case and in doing so circulated various documents to Members including the refusals register and information relating to training of staff. Pictures of signs and notices currently displayed at the shop were also shown to the Sub-Committee. They admitted to the contravention relating to alcohol being sold to the sixteen year old male child test purchaser and explained about the circumstances surrounding the incident. It was stated that Mr Pank had become distracted by a male that had entered the shop as he was behaving suspiciously and Mr Pank was concerned about the manner in which that person was inspecting the goods in the shop. When the test purchaser entered the shop Mr Pank's attention was still focused on the man and it distracted his attention from the sale.

Upon inspection of the records, as circulated at the meeting, concerns were raised by Members and the Trading Standards representative that although conditions had been imposed in May, 2014, records had only been retained from May, 2015, which implied conditions were not being adhered to.

In responding to queries Mr and Mrs Pank stated that at the time of the incident some notices had become ripped and worn out and they were not aware that they were required to display these signs, however upon being informed of this, sufficient notices were then displayed. There were only a few incidents recorded in the Refusals Register as they did not experience many incidents as the shop was located in an affluent area, there were not many sales of alcohol and that most of their clientele were regular local customers. It was stated that as they were also parents they were aware of their responsibilities and would not willingly sell alcohol to anyone that was under age. Reference was made to the incident on 12th March, 2014 when Mrs Pank's son had sold alcohol to a female child test purchase volunteer and the circumstances surrounding the instance was explained in that their son had to cover the shop as Mr Pank had been ill at the time and had suffered a heart attack. In light of these circumstances and that Mr Pank's mother was elderly and bed bound consideration was being given to leasing the shop and it was stated that retaining the licence would help in this regard.

Resolved

That, following careful consideration of the information contained in the report submitted, and as reported at the meeting, the premises licence issued to Thornhill News, 39 Thornhill Road, Halesowen be suspended for a period of two months, commencing from the date of receipt of notification.

It was also recommended that the installation of an Electronic Point of Sale (EPOS) system be considered by Mrs Pank.

Reasons for Decision

This is an application for a review of a premises licence, brought by Trading Standards, following a test purchase exercise on 29th April, 2015. This is the second incident of selling to an underage person within the last thirteen months.

In view of this and the fact that it would appear that a number of the conditions imposed by the Sub-Committee at the last review on 13th May, 2014 have not been complied with and those that have, appear to have been only done so within the last two months, as per the evidence produced at the hearing today, the Premises Licence be suspended for a period of two months.

9 **Application for a Licensed Premises Gaming Machine Permit –
The Raven, 64 Woods Lane, Quarry Bank**

The Sub-Committee noted that the application had been deferred.

The meeting ended at 11.45 am

CHAIR

Licensing Sub-Committee 1 – 15th September 2015

Report of the Strategic Director Resources and Transformation

Application for Review of Premises Licence

Purpose of Report

1. To consider the application for the review of the premises licence in respect of Bill's General Store, 115, Wellington Road, Dudley, DY1 1UB.

Background

2. Bill's General Store (Previously known as Kang General Stores) was first issued with a premises licence on the 16th June 2005, that licence was subsequently transferred on the 28th May 2015, the current premises licence is issued for the following:

Sale of Alcohol

Monday – Saturday	08.00 until 23.00
Sunday	10.00 until 22.30
Good Friday	08.00 until 22.30
Christmas Day	12.00 until 15.00 19.00 until 22.30

3. On the 20th July 2015, an 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.
4. 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.
5. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
6. On the 7th August 2015, the Office of Public Health made representations, a copy of that report has been circulated to Committee Members, interested parties and the premises licence holder.
7. The current premises licence holder is Mr Balras Singh.
8. 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

9. There are no financial implications to the Council.

Law

10. 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
11. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
 12. 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.
 13. 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.
 14. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
 15. 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.
 16. 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).
17. 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.
18. 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.
19. 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.
20. 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
21. 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

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 review of the premises licence.

A handwritten signature in black ink, appearing to read 'P. Tart', with a stylized flourish underneath.

Philip Tart
Strategic Director (Resources and Transformation)

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List of Background Papers

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 Bill's General Store, 115 Wellington Road, Dudley, DY1 1UB

Interested parties and relevant authorities may make representations in writing to the Licensing Office, Law and Governance, Unit 1 Hurst Business Park, Narrowboat Way, Brierley Hill, West Midlands, DY5 1UF between 21st July 2015 and 17th August 2015

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.



P J Tart

Strategic Director Resources & Transformation

Licensing Sub-Committee 1 - 15th September, 2015

Report of the Strategic Director Resources and Transformation

Application to Vary a Premises Licence to Specify an Individual as a Designated Premises Supervisor

Purpose of Report

- 1 To consider the application for variation of the premises licence to specify an individual as a designated premises supervisor in respect of the premises known as The Rising Sun, 55, Darkhouse Lane, Coseley, WV14 8XH.

Background

- 2 The Rising Sun, was first issued with a premises licence on the 25th October 2005, that licence was subsequently transferred on the 16th November 2007 and again on the 18th July 2012.
- 3 The current premises licence is issued for the following:

Live Music	Monday to Thursday	11:00	00:0
Live Music	Friday to Saturday	11:00	01:00
Live Music	Sunday	12:00	00:0
Live Music	New Year's Eve (as statutory Embedded Permission)	20:00	03:00
Recorded Music	Monday to Thursday	11:00	00:00
Recorded Music	Friday to Saturday	11:00	01:00
Recorded Music	Sunday	12:00	00:0
Recorded Music	New Year's Eve (as statutory Embedded Permission)		
Supply of Alcohol	Monday to Thursday	11:00	00:30
Supply of Alcohol	Friday to Saturday	11:00	01:30

Supply of Alcohol	Sunday	12:00	23:30
Supply of Alcohol	New Year's Eve (as statutory Embedded Permission)		

- 4 The current premises licence holder is Mr Satnam Singh.
- 5 On the 7th August 2015, Mr Singh, made application for the variation of the premises licence to specify an individual as designated premises supervisor in respect of the Rising Sun. A copy of that application has been circulated to Committee Members and Interested Parties.
- 6 Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
- 7 On the 10th August 2015, objections to the application were received from the West Midlands Police, copies of those representations have been circulated to the premises licence holder, Committee Members and interested parties in accordance with the Licensing Act 2003.
- 8 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

- 9 There are no financial implications.

Law

- 10 The law relating to the granting of applications to vary a licence to specify individual as premises supervisor is governed by the Licensing Act 2003, part 3, section 37.
- 11 Pursuant to part 3, section 37(5) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- 12 Pursuant to part 3, section 37(6) the Chief Officer of Police must give that notice within the period of 14 days beginning with the day he his notified of the application.

Pursuant to section 39(3), the Licensing Authority must:-

- (a) hold a hearing to consider it, unless the authority, the applicant, and the Chief Officer of the Police who gave notice agree that a hearing is unnecessary, and
- (b) having regard to the notice reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

- 13 Pursuant to regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005), the Licensing Authority must make its determination at the conclusion of the hearing.
- 14 Where an application under section 37 is granted or rejected pursuant to section 39(4), the Licensing Authority must give a notice to that effect to:-
 - (a) the applicant
 - (b) the proposed individual, and
 - (c) the Chief Officer of Police for police area in which the premises are situated.
- 15 Pursuant to section 39(5) the notice must state the authorities reasons for granting or rejecting the application.
- 16 Pursuant to section 39(6) where the application is granted, the notice must specify the time when the variation takes effect.
- 17 Pursuant to schedule 5, part 1 1(c) if the Licensing Committee refuse to grant the application to vary a licence to specify individual as premises supervisor there is a right of appeal to the Magistrate's Court.
- 18 Pursuant to schedule 5, part 1 5(1) and (2) if the licensing Committee grants the application to vary a licence to specify individual as premises supervisor in a case where the Chief Officer of the Police gave notice under section 37(5) the Chief Officer of the Police may appeal against the decision to grant the application.

Equality Impact

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

Recommendation

- 20 That the Sub-Committee determine the application.



Philip Tart

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Strategic Director (Resources and Transformation)

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List of Background Papers
None

Licensing Sub-Committee 1 – 15th September 2015

Report of the Strategic Director Resources and Transformation

Application for the Renewal of Consent to Engage in Street Trading

LSD Promotions Ltd - Food/Craft Market

Purpose of Report

1. To consider the application on behalf of Mr. Dermot McGillicuddy of LSD Promotions, for the renewal of the consent to engage in street trading at a site in Ryemarket (High Street to a point 30 metres from High Street), Stourbridge, West Midlands.

Background

2. On the 14th March, 2014, LSD Promotions made application for the grant of a consent to engage in street trading for a Food/Craft Market on the 1st & 3rd Saturday of each month from 9.00 a.m. until 4.00 p.m. at a site in Ryemarket, (High Street to a point 30 metres from High Street), Stourbridge, to replace the previous Farmers and Craft Market, which ceased trading in Stourbridge on the 4th March, 2014.
3. A copy of the application together with the proposed site plan of the stall layout was forwarded to Committee Members, various agencies and interested parties. Details of the application were also posted on the Licensing Web Page. No objections were received in respect of the application.
4. This matter was considered by the Licensing Sub-Committee on the 28th May 2014, the Committee resolved that the application be approved.
5. On the 8th June 2015, Mr McGillicuddy made application for the renewal of the consent to engage in street trading, a copy of that application has been forwarded to all relevant agencies and interested parties. Details of that application have also been posted on the Licensing Web Page.
6. On the 1st June 2015, (Prior to the application for renewal of consent to engage in street trading) a letter of objection was received from a local trader. Copies of that letter have been forwarded to the Applicant, Committee Members and Interested Parties.
7. This report has a direct link to the Council's priority for safety as the principal reason for submission is safeguarding the public.

Finance

8. There are no financial implications.

Law

9. The grant of consents to engage in street trading is governed by Part III of Schedule IV to the Local Government (Miscellaneous Provisions) Act 1982. Ryemarket (High Street to a point 30 metres from High Street) Stourbridge is a consent street designated as such by a resolution of the Council. To trade without such a consent is an offence.
10. Paragraph 7(2) of Schedule IV of the 1982 Act, states that the Council may grant a consent if it thinks fit and, when granting or renewing a consent, the Council may attach such conditions as it considers necessary.
11. Paragraph 10 of Schedule IV of the 1982 Act, states that a street trading consent may be granted for one period not exceeding 12 months but may be revoked at any time.
12. Where the consent allows the holder to trade from cart, barrow, or other vehicle, then the consent must specify the location from which the trader may trade and the times between which or periods for which he may trade.
13. There is no right of appeal against the Council's decision to vary a condition upon which consent is issued, or refusals to grant or renew a street trader's consent.

Equality Impact

14. This report takes into account the Council's policy on equal opportunities.
15. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

16. That the Committee consider the application for the renewal of the street trading consent issued to LSD Promotions.



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