

## **Licensing Sub-Committee 2**

**Tuesday, 19<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 1<sup>st</sup> December, 2015 as a correct record
5. Application for the Grant of a Street Collection Permit – CAPLL Ltd (PDSA)  
(Pages 1 – 3)
6. Application for Review of a Premises Licence – SSK Convenience Store, 35 Church Street, Pensnett, Brierley Hill (Pages 4 – 8)



**Strategic Director Resources and Transformation**

**Dated: 6<sup>th</sup> April, 2016**

**Distribution:**

Councillor K Finch (Chair); M Evans and S Henley

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**Minutes of the Licensing Sub-Committee 2**

**Tuesday 1<sup>st</sup> December, 2015 at 10.00 am**  
**in the Council Chamber, The Council House, Dudley**

**Present:-**

Councillor K Finch (Chair)  
Councillors M Evans and S Henley

**Officers:-**

T Holder – Solicitor, Resources and Transformation Directorate;  
T Parkes – Licensing Enforcement Officer, Place Directorate and M  
Johal, Democratic Services Officer, Resources and Transformation  
Directorate.

12      **Declarations of Interest**

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

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13      **Minutes**

**Resolved**

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

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14      **Transfer of Premises Licence**

A report of the Strategic Director Resources and Transformation was  
submitted on an application for transfer of premises licence in respect  
of Spice Leaf (Formerly Happy House Cantonese), Stourbridge Road,  
Halesowen.

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

Mr A Rahman – Applicant  
Ms A Baldwin – West Midlands Police

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

PC Baldwin – West Midlands Police made representations on behalf of the Police in objecting to the application. The meeting were informed that the applicant had been convicted in 2012 for several Fraud offences. These had related to opening a bank account in a false name with the intention to de-fraud the bank and possessing documents that did not belong to him. The applicant had been convicted of a total of eight offences which had resulted in him receiving a twenty four months suspended sentence and ordered to do two hundred hours of community work, four months tag and curfew.

Mr Rahman, the applicant, then made representations in his defence, and in doing so, accepted he had committed the offences but stated that he had served his punishment. He informed the meeting that at the time of committing the offences he was under a lot of financial pressure and had also suffered from close family bereavements. Mr Rahman commented that the business was a good opportunity for him to make a fresh start as it would enable him to lead a stable life and to provide an income for his family. It was stressed that the transfer of the licence was solely to sell takeaway food and did not include the sale of alcohol. Mr Rahman indicated that he had already paid a sum of money for improvements to be made to the business as he had not realised the due process in acquiring the transfer of the licence.

Mr Rahman responded to queries and in doing so stated that he had worked for a mortgage company at the time of the offences, he was experienced in the selling of food as he currently works at a restaurant and that he would ensure relevant checks were undertaken so that the business complied with statutory requirements. Mr Rahman acknowledged that running a business was pressurised but he was of the view that he would not be under the same financial strain as previously as he now had financial support from his family.

The parties confirmed that they had a fair hearing and 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 careful consideration of the information contained in the report submitted, the transfer of premises licence in respect of Spice Leaf (Formerly Happy House Cantonese), Stourbridge Road, Halesowen, be refused in light of the applicant's previous convictions.

The applicant was informed on his right of appeal.

### Reasons for Decision

We have heard the application of Mr Ansar Miah for the transfer of the premises licence in respect of Spice Leaf.

The Sub-Committee heard from Amanda Baldwin, West Midlands Police, who has outlined eight fraud offences for which Mr Miah was convicted in 2012.

The Sub-Committee has heard from the applicant, Mr Miah, about the circumstances of the offences and what he has been doing since that time.

The Sub-Committee has carefully considered the evidence this morning. It does not on this occasion consider it appropriate to transfer the premises licence to Mr Miah. This is because of his previous convictions.

The meeting ended at 10.30 am

CHAIR

**Licensing Sub-Committee 2 – 19<sup>th</sup> April 2016**

**Report of the Strategic Director Place**

**Application for the Grant of a Street Collection Permit**

**CAPLL LTD (PDSA)**

**Purpose of Report**

1. To consider the application for the grant of a Street Collection Permit made by Miss Christina Wyatt of CAPLL Ltd on behalf of the PDSA.

**Background**

2. Over the past 2 or 3 years a number of charities have conducted their charitable collections by way of face to face fundraising, which usually relates to the collection of direct debits/standing orders from shoppers/pedestrians.
3. Professional fundraising companies normally conduct these collections on behalf of charities from whom, they receive payment.
4. The Licensing Section has over the years received complaints from members of the public, Town Centre Manager and the Deputy Leader of the Council in relation to the manner in which these collections have been conducted.
5. There had been some confusion as to whether these companies require a street collection permit to undertake this kind of collection or whether they were only required to inform the Council when the collection takes place.
6. The Licensing Officer therefore undertook a review of the Licensing Policy in respect of applications for the grant of street collections. This matter was considered by the Licensing and Safety Committee on the 21<sup>st</sup> September 2011. The Committee resolved that street collection permits would be required and that any application for the grant of a street collection by the method of face to face fundraising/direct debits should be referred to the Licensing & Safety Sub-Committee for determination.
7. On the 14<sup>th</sup> January 2016, Miss Christina Wyatt of CAPLL Ltd made application for the grant of a Street Collection Permit in respect of the charity known as the PDSA. Copies of the application along with the relevant accounts have been forwarded to Committee Members and interested parties.
8. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all street collection

permit applicants to submit income and expenditure accounts for the previous financial year.

9. In recent years, applications for street collections have been received from independent commercial companies undertaking collections on behalf of specific charities. Therefore, in November 2009, the Council introduced a further policy that all applicants for street collection permits be required to submit with the application, income and expenditure accounts for the previous financial year of the charity for which the collection is being made and also for the company or organisation making the collection. This is to ensure that a substantial amount of the monies collected are used for charitable purposes.
10. A copy of the accounts submitted have been forward to Committee members and interested parties.
11. Copies of the application have been circulated to the West Midlands Police and the Director of the Urban Environment (Highways) and no objections were received from either of the agencies.
12. This application was delayed due to outstanding documentation.
13. This application falls within the Council's recent responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

### **Finance**

14. There are no financial implications.

### **Law**

15. Street collection permits are governed by the Police, Factories etc (Miscellaneous Provisions) Act 1916.
16. Under this Act the Council has made regulations for street collections.
17. The Council has unfettered discretion to the granting of street collection permits and there are no statutory rights of appeal against the refusal of a street collection permit.

### **Equality Impact**

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

## **Recommendation**

20. That the Committee consider the application for the grant of a street collection permit in respect of CAPLL on behalf of the PDSA.



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STRATEGIC DIRECTOR OF PLACE

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## **List of Background Papers**

**Licensing Sub-Committee 2 – 19th 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 SSK Convenience Store, 35 Church Street, Pensnett, Brierley Hill, West Midlands, DY5 4HB.

**Background**

2. On the 17<sup>th</sup> April 2014 an application was received from Licensing Trade Legal Services Ltd, on behalf of Thanikan Packiyathan in respect of the premises known as SSK Convenience Store, 35 Church Street, Pensnett, Brierley Hill, West Midlands.
3. The application for a premises licence was as follows:  
Sale of Alcohol  
Monday – Sunday inc 08.00 – 22.00
4. Representations were received from two local residents, and Trading Standards.
5. This matter was considered by the Sub-Committee on the 3rd June 2014, the Committee resolved that the premises licence be granted.
6. On the 2<sup>nd</sup> March 2016, 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.
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 1.
8. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
9. On the 7<sup>th</sup> March 2016, the West Midlands Police made representations.

10. On the 22<sup>nd</sup> March 2016, the Licensing Office made representations.
11. On the 24<sup>th</sup> March 2016, the Office of Public Health also made representations copies of all representations have been forwarded to Committee Members, the Premises Licence Holder and Interested Parties.
12. The current premises licence holder is Mr T Packiyathan.
13. This applications 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**

14. There are no financial implications.

### **Law**

15. 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
16. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
  17. 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.
  18. 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.

19. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
20. 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.
21. 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).
22. 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.
23. 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.
24. 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.
25. 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

26. 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**

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

### **Recommendation**

- 30. That the Sub-Committee determine the application.



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STRATEGIC DIRECTOR OF PLACE

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### **List of Background Papers**

## DUDLEY METROPOLITAN BOROUGH COUNCIL

[www.dudley.gov.uk](http://www.dudley.gov.uk)REVIEW OF PREMISES LICENCE  
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to SSK Convenience Store, 35 Church Street, Pensnett, Brierley Hill, DY5 4HB.

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 3<sup>rd</sup> March 2016 and 30<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