

## Meeting of Licensing Sub-Committee 1

Friday 18<sup>th</sup> January, 2019 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 serving for this meeting of the 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 16<sup>th</sup> October, 2018 as a correct record.
5. Application for Review of a Premises Licence following a Closure Order (Pages 1 – 7) *(To be considered under the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.)*
6. To consider any questions from Members to the Chair where two clear days notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).



Chief Executive

Dated: 10<sup>th</sup> January, 2019

#### Distribution:

#### Members of Licensing Sub-Committee 1:

Councillor C Elcock (Chair)

Councillors H Bills and S Keasey

Councillor M Evans (Substitute for Councillor C Elcock)



## Please note the following:

- In the event of the alarms sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.
- There is no smoking on the premises in line with national legislation. It is an offence to smoke in or on these premises.
- Public WiFi is available in the Council House. The use of mobile devices or electronic facilities is permitted for the purposes of recording/reporting during the public session of the meeting. The use of any such devices must not disrupt the meeting – Please turn off any ringtones or set your devices to silent.
- If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, please contact us in advance and we will do our best to help you.
- Information about the Council and our meetings can be viewed on the website [www.dudley.gov.uk](http://www.dudley.gov.uk)

### **Elected Members**

- Agendas containing reports with exempt information should be treated as private and confidential. It is your responsibility to ensure that information containing private and personal data is kept safe and secure at all times. Following the meeting confidential papers should be handed to the Democratic Services Officer for secure disposal. If you choose to retain the documents you should ensure that the information is securely stored and destroyed within six months.
- Members can submit apologies by contacting Democratic Services. The appointment of any Substitute Member(s) should be notified to Democratic Services at least one hour before the meeting starts.
- You can contact Democratic Services by Telephone 01384 815238 or E-mail [Democratic.Services@dudley.gov.uk](mailto:Democratic.Services@dudley.gov.uk)

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

**Tuesday 16<sup>th</sup> October, 2018 at 10.50 am**  
**in the Council Chamber, The Council House, Dudley**

### **Present:-**

Councillors H Bills, M Evans and S Keasey

### **Officers:-**

R Clark (Legal Advisor – Solicitor) and K Taylor (Democratic Services Officer) (Both Chief Executive’s Directorate) and B Hughes (Assistant Team Manager - Waste and Fleet Care) (Place Directorate).

Together with one member of the press.

---

12 **Election of Chair**

That Councillor M Evans be elected as Chair for this meeting only.

---

13 **Apology for Absence**

An apology for absence from the meeting was submitted on behalf of Councillor C Elcock.

---

14 **Appointment of Substitute Member**

It was reported that Councillor M Evans had been appointed as substitute Member for Councillor C Elcock for this meeting of the Sub-Committee only.

---

15 **Declarations of Interest**

In referring to Agenda Item No. 5 – Application for Renewal of Consent to Engage in Street Trading – Halesowen Farmers and Craft Market, Councillors Evans and Keasey, Ward Members for Sedgley, did not declare an interest in accordance with the Members’ code of conduct, but for transparency purposes confirmed that Bescot Promotions Ltd supplied a market during the Sedgley Christmas Lights Switch On event.

---

---

16 **Minutes**

**Resolved**

That the minutes of the meeting of the Sub-Committee held on 3<sup>rd</sup> July, 2018, be approved as a correct record and signed.

---

17 **Application for Renewal of Consent to Engage in Street Trading – Halesowen Farmers and Craft Market**

A report of the Strategic Director Place was submitted in respect of an application made by Mr S Evans on behalf of Bescot Promotions Ltd, for the renewal of the consent to engage in street trading in respect of the Halesowen Farmers and Craft Market.

The following persons were in attendance at the meeting:

Mr S Cox – Marketing Manager (Bescot Promotions Ltd)  
Mr S Evans – Director (Bescot Promotions Ltd)  
Miss R Howard – Halesowen Business Improvement District (BID) Town Manager (Objector)

Following introductions, the Assistant Team Manager - Waste and Fleet Care presented the report on behalf of the Council, and referred to a business case outlining Halesowen BID's proposition for the street traders licence with Halesowen Town Centre, and a letter of objection from the Halesowen Chamber of Trade that had been submitted prior to the hearing.

At this juncture the meeting was adjourned to enable the Sub-Committee to determine whether the meeting should continue following the late submission of the documentation. Following the adjournment, and confirmation from Mr Cox that he had considered the paperwork and was in agreement to continue with the application today, the Sub-Committee agreed to proceed with the hearing.

In referring to the additional information submitted, Mr Cox commented that the photographs that identified vehicles causing obstruction within pedestrian zones were not associated to Bescot Promotions Ltd, and that LSD Promotions as mentioned within the representations submitted had not operated at Halesowen for a number of years. He stated that the extension of trading hours to 5pm granted in 2014, and the limitations within Government Regulations were preventing farmers from attending the market.

Mr Cox accepted that footfall within the town had reduced and suggested that should his business not be financially viable within a twelve month period, he would return his consent to engage in street trading to the Council. He further requested that the Sub-Committee give consideration to the market operating once a month together with a reduction in trading hours in order to focus on providing specialist farmers and craft products to make the town a success again.

In responding to comments made, Mr Cox stated that healthy competition was inevitable between street traders and shop owners and that he would be unable to address the comments made in that regard.

Reference was made to a previous Licensing Sub-Committee in 2014, where the Sub-Committee agreed to extend the trading hours to 5pm in order to address concerns raised of the market obstructing shop frontages.

In responding to a number of questions asked by a Member, Mr Cox stated that he had recently attended a craft fair at Himley Hall in order to advertise the market and attract potential traders. He did however confirm that a good equal split of farmers, craft and general items were necessary to ensure a thriving business.

At this juncture, the Legal advisor confirmed that there was some flexibility within the regulations in respect of consent to engage in street trading and that the application submitted could be amended and considered by the Sub-Committee based on the proposals made verbally today.

Miss Howard then presented her representations and in doing so stated that the Halesowen BID had received a large number of complaints from shop owners in particular that the products that were sold at the market were of a discounted price, and that as street traders did not pay for business rates or overheads, this was considered unreasonable.

It was reported that Halesowen BID had proposed to purchase and takeover all the Halesowen street traders licences and provide management to the street traders in the town on a daily basis, in order that rules, regulations and safety measures were adhered to. She did however agree that a reduction in the number of weeks that the market was operational to focus on farmers and craft products could be successful.

In responding to the Sub-Committees concerns regarding the late submission of documents, Miss Howard confirmed that the delay was due to the time taken in contacting all businesses within the town to ensure that everyone was in agreement with the proposals and objections put forward.

Miss Howard also commented that Halesowen BID would work alongside Bescot Promotions Ltd to create a plan for themed markets in order to benefit the town, and that any profits made would support additional town events and produce promotional material to advertise the market.

Following all comments made, Mr Cox confirmed that he was requesting a reduction in market trading hours from 9am to 3pm on every third Saturday of each month and for the market to be relocated to the top of Somers Square in order to alleviate concerns raised.

In responding to a question by a Member, Mr Evans confirmed that the weekly market times commenced in March, 2018.

Following a brief adjournment, the Assistant Team Manager – Waste and Fleet Care confirmed that the consent to engage in street trading had expired in July, 2018, however a temporary extension was granted during consideration of the application.

The parties 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 outlined the decision.

### **Resolved**

That the application for the renewal of the consent to engage in street trading in respect of the Halesowen Farmers and Craft Market be approved, together with the following modifications:-

- 1) That the market shall operate on the third Saturday of each month from 9am – 3pm, to commence on Saturday 17<sup>th</sup> November, 2018, and that the location of the market be relocated closer to Somers Square.

---

The meeting ended at 12.15pm

CHAIR

**Licensing Sub-Committee 1 – 18<sup>th</sup> January 2019**

**Report of the Strategic Director Place**

**Application for Review of a Premises Licence following a Closure Order**

**Purpose**

1. To consider the application for the review of the premises licence in respect of The Crown, Simms Lane, Netherton, Dudley, DY2 0PQ, following the receipt of a Closure Order (Anti-Social Behaviour, Crime and Policing Act 2014).

**Recommendations**

2. That the Committee determine the application for the review of the premises licence following the receipt of a Closure order in respect of the premises known as The Crown, Simms Lane, Netherton, Dudley, DY2 0PQ.

**Background**

3. The Crown was first issued with a premises licence on the 26<sup>th</sup> September 2005, that licence was transferred on the 20<sup>th</sup> April 2016, into the name of NewRiver Trustee 7 Ltd & NewRiver Trustee 8 Ltd.

The current premises licence is issued for the following:-

<b>B: Films</b>	<b>Sundays to Thursdays</b>	<b>10:00</b>	<b>00:00</b>
<b>B: Films</b>	<b>Fridays &amp; Saturdays</b>	<b>10:00</b>	<b>02:00</b>
<b>B: Films</b>	<b>Where the hours for the sale of alcohol are extended so are the hours for this activity</b>		
<b>C: Indoor Sporting Events</b>	<b>Sundays to Thursdays</b>	<b>10:00</b>	<b>00:00</b>
<b>C: Indoor Sporting Events</b>	<b>Fridays &amp; Saturdays</b>	<b>10:00</b>	<b>02:00</b>
<b>C: Indoor Sporting Events</b>	<b>Where the hours for the sale of alcohol are extended so are the hours for this activity</b>		

<b>E: Live Music</b>	<b>Sundays to Thursdays</b>	<b>10:00</b>	<b>00:00</b>
<b>E: Live Music</b>	<b>Fridays &amp; Saturdays</b>	<b>10:00</b>	<b>02:00</b>
<b>E: Live Music</b>	<b>Where the hours for the sale of alcohol are extended so are the hours for this activity</b>		
<b>F: Recorded Music</b>	<b>Sundays to Thursdays</b>	<b>10:00</b>	<b>00:00</b>
<b>F: Recorded Music</b>	<b>Fridays &amp; Saturdays</b>	<b>10:00</b>	<b>02:00</b>
<b>F: Recorded Music</b>	<b>Where the hours for the sale of alcohol are extended so are the hours for this activity</b>		
<b>G: Performance of Dance</b>	<b>Sundays to Thursdays</b>	<b>10:00</b>	<b>00:00</b>
<b>G: Performance of Dance</b>	<b>Fridays &amp; Saturdays</b>	<b>10:00</b>	<b>02:00</b>
<b>G: Performance of Dance</b>	<b>Where the hours for the sale of alcohol are extended so are the hours for this activity</b>		
<b>I: Late Night Refreshment</b>	<b>Sundays to Thursdays</b>	<b>23:00</b>	<b>00:00</b>
<b>I: Late Night Refreshment</b>	<b>Fridays &amp; Saturdays</b>	<b>23:00</b>	<b>02:00</b>
<b>I: Late Night Refreshment</b>	<b>Where the hours for the sale of alcohol are extended so are the hours for this activity</b>		
<b>J: Supply of Alcohol</b>	<b>Sundays to Thursdays</b>	<b>10:00</b>	<b>00:00</b>
<b>J: Supply of Alcohol</b>	<b>Fridays &amp; Saturdays</b>	<b>10:00</b>	<b>02:00</b>
<b>J: Supply of Alcohol</b>	<b>New Years Eve permitted hours will be extended from normal close on New Years Eve until normal opening on New Years Day</b>		
<b>J: Supply of Alcohol</b>	<b>To permit the premises to open for</b>		

	<p><b>licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed 14 days prior notice in writing to the police before the premises intend to open such notification to include the opening times and the sporting event which is to shown</b></p>		
--	--	--	--

4. On the 7<sup>th</sup> January 2019, a copy of a Closure Order under the Anti-Social Behaviour, Crime and Policing Act 2014 was received by the Licensing Officer from Wolverhampton Magistrates Court. A copy of that order is attached to this report as Appendix 1.
5. The Council advertised the review of the premises licence for 7 consecutive days in accordance with Licensing Regulation SI, 2005, No. 42, Section 38. The closing date for representations is the 14<sup>th</sup> January 2019 any representations made will be brought to the attention of the Committee Members at the hearing.
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. The law relating to the review of the premises licence following a closure order under section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 is governed by the Licensing Act 2003 (premises licences and club premises certificates) Regulations 2005.

9. These regulations specify:

That following a closure order under section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 or section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

When the licensing authority receives notice that a magistrates’ court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28<sup>th</sup> day after the day on which the notice is received;

The hearing must be commenced within ten working days, the first of which is the day after the day the notice from the magistrates’ court is received;

Notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

10. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
11. The authority must, having regard to the application and any relevant representations, take such steps as in accordance with Licensing Act 2003 section 52(1) subsection (4) (if any) it considers appropriate for the promotion of the licensing objectives.
12. 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.
13. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
14. 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.
15. 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).
16. 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.
17. 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.
18. 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.
19. 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
20. 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**

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

### **Human Resources/Transformation**

24. There are no human resources/transformation implications

**Commercial Implications**

25. There are no Commercial Implications.



.....  
STRATEGIC DIRECTOR OF PLACE

Contact Officer: Mr S Smith  
Telephone: 01384 814631  
Email: [simon.smith@dudley.gov.uk](mailto:simon.smith@dudley.gov.uk)

**List of Background Papers**

**CLOSURE ORDER  
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

**We hereby give you notice that on**

**8<sup>th</sup> November 2018 at 10am**  
At Wolverhampton Magistrates' Court  
Sitting at North Street, Wolverhampton, WV1 1RA

A Closure Order under section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 was granted.

From the granting of this Order persons are prohibited from remaining, returning and/or entering the premises of:

**"The Crown Inn", Simms Lane, Dudley, DY2 0PQ**

**For three months until midnight on** *7<sup>th</sup> February* **2019**

**A person commits an offence if they remain on or enters this premises and can be arrested. If found guilty of an offence they are liable to imprisonment and/or a fine.**

This premises has been sealed and no further entry will be allowed. The occupier will therefore be required to find alternative accommodation. Any persons entering the premises without the permission of West Midlands Police or ~~Dudley~~ *Wolverhampton* Magistrates' Court commits an offence and can be arrested.

Order issued by Wolverhampton Magistrates' Court

Print Name: *Andrew Smith*

Signed: *[Signature]*

Dated: *8/11/2018*

Enquiries regarding this notice may be directed to the:

Brierley Police Station, Tel: 0845 113 5000

Citizens Advice Bureau, Marlborough House, 11 St James's Road, Dudley, West Midlands, DY1 1JG

Advice line: 03444 111 444

Email: [advice@dudleycabx.org](mailto:advice@dudleycabx.org)

Dudley Metropolitan Borough Council, Council House, Priory Road, Dudley, DY1 1HF.

Tel: 0300 555 2345

Help and advice, counselling and information for people concerned about their use of drugs or their families and friends.

Talk to Frank – 0800 776600