

Licensing Sub-Committee 2

Tuesday, 9th June, 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 10th February, 2015 as a correct record.
5. Application for a Premises Licence – Lake Discount Store, 18 Lake Street, Lower Gornal, Dudley (Pages 1 – 4)
6. Application for Consent to Engage in Street Trading – Mr P R Guy – Hagley Street, Halesowen (Pages 5 – 6)
7. To consider any questions from Members to the Chair where two clear days notice has been given to the Director of Corporate Resources (Council Procedure Rule 11.8).



Strategic Director (Resources and Transformation)

Dated: 28th May, 2015

Distribution:

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

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- Elected Members can submit apologies by contacting the officer named below. The appointment of any Substitute Member(s) should be notified to Democratic Services at least one hour before the meeting starts.
- The Democratic Services contact officer for this meeting is Karen Taylor, Telephone 01384 818116 or E-mail karen.taylor@dudley.gov.uk

Minutes of Licensing Sub-Committee 2

**Tuesday 10th February, 2015 at 10.05 am
in Committee Room 4, The Council House, Dudley**

Present:-

Councillor K Finch (Chair)
Councillors S Etheridge and R James

Officers: -

R Clark (Legal Advisor), L Rouse (Licensing Clerk) and K Taylor –
All Directorate of Resources and Transformation.

12 **Declarations of Interest**

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

13 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held
on 23rd September, 2014, be approved as a correct record
and signed.

14 **Application for a Premises Licence – Brierley Hill Service
Station, Brettell Lane, Brierley Hill**

A report of the Strategic Director (Resources and Transformation)
was submitted on an application for a premises licence in respect
of Brierley Hill Service Station, Brettell Lane, Brierley Hill.

The applicant, Mr S Sangha (Director of Select Real Estate
Limited) and proposed Designated Premises Supervisor, was in
attendance at the meeting together with Ms A Choudhry
(Manager), Mr C Lockett (Lockett and Co Licensing Consultants)
and Mr R Light (Barrister).

Also in attendance and objecting to the application was Mr B
Hughes, Licensing Enforcement Officer, Directorate of Resources
and Transformation.

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

Mr Hughes then presented the representations of the Licensing Authority and in doing so made particular reference to Section 176 of the Licensing Act 2003 section 2b, and that there was insufficient evidence submitted by the applicant to demonstrate that the premises were used other than as a garage.

He further reported that the premises were used by the local community, in particular, customers that attended the premises on foot and therefore objected to the application submitted.

Mr Light then presented his case, on behalf of the applicant, and in doing so stated that the premises were owned by Mr Sangha and that he owned a further fourteen premises, nine of which were licensed with four being licensed for twenty-four hours. He further reported that Ms Choudhry had worked at the premises since 1992 and had previously worked in licensed premises.

Mr Light made particular reference that there had been no objections received from responsible authorities, and outlined the operating schedule, submitted together with the application, referring to the steps intended to promote the four licensing objectives, including, CCTV; Challenge 25 policy and extensive training, which would be provided by Lockett and Co Licensing Consultants.

Following comments made in relation to Section 176 of the Licensing Act, Mr Light referred to the evidence that had been submitted to all parties prior to the hearing, in particular, figures that had identified that the premises was not primarily used as a garage only, and that a large number of customers purchased groceries only and withdrew cash from the ATM machines.

Following comments made in relation to customers attending the premises on footfall, it was agreed by all parties that this did not reflect all customers, as some would drive their vehicles.

In responding to a question by the Chair, Mr Light referred to the significant reduction of forecourts nationally, and that the introduction of groceries and alcohol were vital to operate a successful business. Mr Sangha also reported that he would adjust the number of staff employed at the premises in accordance with the operation of the business and that all members of staff would be required to complete their training record.

Clarification was sought as to the reasons why the applicant had requested a licence for twenty-four hours, when the doors to the premises would be closed between 10 pm and 6 am. In responding, Mr Light stated that the application mirrored the premises operating licence and that sales would continue to be made during the hours of 10 pm and 6 am through the existing night payment hatch for security purposes.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

Following comments made, Mr Hughes stated that should the Sub-Committee be minded to grant the application submitted, he would be agreeable with the conditions outlined in the operating schedule attached to the application.

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 outlined the decision.

Resolved

That the grant of a premises licence in respect of Brierley Hill Service Station, Brettell Lane, Brierley Hill, be approved, in the following terms:

Sale of Alcohol

Monday to Sunday inc 00.00 until 24.00

Late Night Refreshments

Monday to Sunday inc 23.00 until 05.00

Reasons for Decision

This is an application for a premises licence, for the sale of alcohol over 24 hours. The Licensing Authority has made a representation on the ground that it was not satisfied that the primary use of the premises was as a store, rather than as a garage, whose primary use was to sell petrol. They put the issue to the Sub-Committee for a decision on the primary use of the premises.

The Sub-Committee heard evidence, and was presented with figures, to support the assertion that the majority of persons using the premises were for the purchase of items other than petrol. The figures were measured in terms of those buying petrol only, those buying other goods only and those buying both.

The Sub-Committee was satisfied from the figures that the primary use of the premises was for the purchase of items other than petrol, and therefore grants the application.

The Sub-Committee was satisfied with the operating schedule in terms if the proposals for the sale of alcohol.

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Notice of Temporary Event – The Bell, 20 Market Street, Stourbridge

A report of the Strategic Director (Resources and Transformation) was submitted on the objections received to the Notice of Temporary Event served on the Council by Mr T P Jones in respect of The Bell, 20 Market Street, Stourbridge.

In attendance at the meeting and representing The Bell were Mr T Jones, Mr R McGillicuddy and Miss M Ruston.

Also in attendance and objecting to the application were Sergeant N Hobster, WPC Cheema and J Willers, West Midlands Police. Mr B Hughes, Licensing Enforcement Officer, Directorate of Resources and Transformation was also in attendance as an observer.

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

WPC Cheema then presented the representations of West Midlands Police and in doing so produced evidence of a number of incidents throughout 2014 into early 2015, associated to the premises which were predominately violent and required the presence of Police and/or an ambulance.

It was noted that the majority of the incidents occurred after midnight, with some being after the permitted licensable hours of 02:00 hrs, therefore an objection was submitted to the temporary event notice requesting the premises to operate until 04:00 hrs, as it was anticipated that an incident could occur.

WPC Cheema reported that the main concerns were of the health and safety of staff and members of the public and that the Police had identified a crime trend and believed that this had resulted from an extension of hours that had previously been granted for a temporary event.

Following comments made by Mr Jones in relation to the circumstances surrounding the incidents as described by WPC Cheema, Sergeant Hobster acknowledged that in some instances situations could be unmanageable, however the objection had not been submitted following an isolated incident and it was believed that the number of incidents associated to the premises resulted in a cumulative impact in the area.

It was reported that a number of the incidents had occurred during busy periods such as Christmas and Bank Holidays; however Mr Jones informed the Sub-Committee that there were no incidents during July and September, 2014.

Reference was made to a number of the incidents outlined by WPC Cheema, and Mr Jones stated that he regularly attended Pub watch meetings and it would have been beneficial if the concerns and incidents had been brought to his attention at that time in order to address the concerns raised and work together with the Police. In responding, Sergeant Hobster reported that she was disappointed that Mr Jones had not been made aware and that the Police had a pro-active approach and were not wishing to overturn the work already accomplished; however there were concerns of the number of incidents since November, 2014. She also confirmed that the Police had a positive working relationship with The Bell.

It was noted that the premises had twelve temporary events over a period of five years.

It was further reported that the police did not object to the last temporary events notice sought for 31st January, 2015.

Mr McGillicuddy then stated that it was important to ensure that there was a safe environment at the premises and suggested that new customers that may be intoxicated would not be admitted to the premises after 1.00am, and the number of door staff on duty on the night of 15th February, 2015 would be increased from five to seven, to address the concerns raised.

In responding to a question by a member, Miss Ruston, who was responsible for security at the premises, reported that she completed an incident report on customers who had been ejected from the premises on a weekly basis.

Following the comments made by Mr McGillicuddy, WPC Cheema stated that she was agreeable to the suggestions made, and in addition requested that the CCTV for the night should be recording correctly and produced good quality pictures which would be immediately available to the police upon request, and that alcohol or glasses should not be taken outside the premises.

In responding to a question by a member, it was confirmed that a record of people who were barred from the premises was displayed at the front entrance, and staff were informed of the people and incidents on a monthly basis.

In responding to a question by a member in relation to the number of incidents that occurred outside the premises, Mr Jones reported that the main issue was that customers who were leaving the premises would congregate outside as there were food outlets directly opposite the premises that were open at 2.00 am.

Reference was made to the security of the building, and Miss Ruston reported that there were five security staff employed at the premises and were positioned in a number of areas. She further reported that all staff signed in and received a radio and headphone set.

In responding to a question by a member, WPC Cheema reported that the Police did not wish to submit an application to review the premises licence, as the concerns raised predominately related to incidents that had occurred when a temporary event had taken place.

In responding to a question by a member, WPC Cheema confirmed that the Police had not received any temporary events notice for Valentines weekend from other venues in the area, and that some venues were licensed until 2.30 am and 3 am, therefore The Bell would be the only venue open in the immediate area.

At this juncture, and following the suggestions made by The Bell and the Police, all parties withdrew from the meeting to allow the Police to give consideration as to whether they wished to withdraw their objection. Having returned to the meeting, WPC Cheema confirmed that the objection to the temporary events notice remained and requested that the Sub-Committee give consideration to the representations made.

Mr McGillicuddy reported that the feedback from the Police was that the management of the premises was successful and that he considered that the number of incidents over a twelve month period were a good record considering that The Bell was a popular venue.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

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

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

Resolved

That the application received for the Notice of Temporary Event served on the Council by Mr T P Jones in respect of The Bell, 20 Market Street, Stourbridge, be approved, in the following terms:

Sale of Alcohol/Regulated Entertainment/Late Night Refreshment

02.00 am until 04.00 am (Sunday 15th February, 2015)
Valentines Weekend

Reasons for Decision

This hearing is to consider the objections of the West Midlands Police, on the grounds of crime and disorder, to the application for a temporary events notice for the 15th February, 2015 at The Bell.

The Police gave evidence of a number of incidents throughout 2014 into early 2015, when they received reports of violent incidents, when they and/or the ambulance service had been called out. The evidence from the Manager and door manager at the Bell was that a number of these incidents were outside the Bell, and one incident relating to 25 persons fighting was unknown to them, and was an anonymous call to the police. There have undoubtedly been some incidents within the premises.

The Management of the Bell has stated that it wishes to cooperate with the police, and that it relies upon its reputation of being a safe environment to do its business. It also pointed out that the police did not object to the last temporary events notice sought for 31st January, 2015. The Sub-Committee is clear that it cannot attach new conditions to the temporary events notice but it accepts the restrictions put forward by the management of the Bell as follows:-

1. That no new customers will be admitted to the premises after 1.00am.
2. That the number of door staff on duty on the night of 15th February, 2015 will be increased from 5 to 7.
3. That CCTV for the night will be recording properly and produce good quality pictures in good light which will be immediately available to the police upon request.
4. That no alcohol or glasses can be taken outside the premises.

On the basis of these concessions, and on the basis of the evidence heard today, the Sub-Committee grants the application for the temporary event notice but expects the Bell to manage the event as it has agreed today. The Police do have the option of making an application to review the premises licence if it believes that the agreement in relation to this event, or other incidents, represent a breach of the licensing objectives.

The meeting ended at 12.15 pm

CHAIR

Licensing Sub-Committee 2 – 9th June 2015

Report of the Strategic Director Resources and Transformation.

Application for a Premises Licence – Lake Discount Store.

Purpose of Report

1. To consider the application for the grant of a premises licence in respect of Lake Discount Store, 18, Lake Street, Lower Gornal, Dudley, DY3 2AU.

Background

2. On the 13th April 2015, an application for the grant of a new premises licence was received from Cape Hill Solicitor's on behalf of Mr Mohammad Rashad in respect of the premises known as Lake Discount Store, 18, Lake Street, Lower Gornal, Dudley, West Midlands, DY3 2AU. A copy of that application has been forwarded to the Committee Members and interested parties in accordance with the Licensing Act 2003.
3. The application had the following documents enclosed:-
 - Plan of the premises
 - Correct Fee of £190.00
 - Consent of proposed premises supervisor
4. The application for a premises licence is as follows:

Sale of Alcohol

Monday – Sunday inc. 06.00 – 22.00

5. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
6. Representation have been received from a Ward Councillor along with 5 letters of objection from local residents, representations have also been received from the Licensing Authority, Trading Standards and the West Midlands Police. Copies of which have been forwarded to the applicant, Committee Members and Interested parties in accordance with the Licensing Act 2003.

7. These premises previously held a premises licence for the sale of alcohol, that licence was revoked by the Licensing Sub-Committee 4 on the 2nd September 2014.
8. On the 20th May 2015, the applicant confirmed to the Licensing office that he had appointed Quality Solicitors Talbots to represent him in this matter.
9. 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

10. There are no financial implications.

Law

11. The law relating to the determination of applications for the grant of a premises licence is governed by the Licensing Act 2003, part 3, section 18.
12. Pursuant to Section 18(3) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - (a) hold a hearing to consider them, unless the authority, the applicant each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the Licensing objectives.
13. Pursuant to Section 18 (4) the steps are:-
 - (a) to grant the licence subject to:-
 - (i) conditions that are consistent with the operating schedule accompanying the application modified to such an extent as the authority considers appropriate for the promotion of the licensing objectives, and
 - (ii) any condition which must under section 19, 20 or 21 included in the licence;
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application
14. Pursuant to Section 23(1) of the Licensing Act 2003 where an application (or any part of an application) is granted under section 18 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to:-

- 1 (a) (i) the applicant
 - 1 (a) (ii) any person who made relevant representations in respect of the application and
 - 1 (a) (iii) the Chief Officer of Police for the police area in which the premises are situated and
 - 1 (b) issue the application with the licence and a summary of it
15. Pursuant to section 23(2) where relevant representations were made in respect of the application, the notice under subsection (1)(a) must state the authority's reasons for its decisions as to the steps (if any) to take under section 18(3)(b).
16. Pursuant to section 23(3) where an application is rejected under section 18, the licensing authority must immediately give a notice to that effect stating its reasons for the decision, to
- (a) the applicant
 - (b) any person who made relevant representations in respect of the application, and
 - (c) the Chief of Police for the area in which the premises are situated

Where a Local Authority grant a licence under section 18 pursuant to schedule 5 of the Licensing Act, section 2 the holder of the licence may appeal against any decision:-

- (a) to impose conditions on the licence under subsection (2)(a) or 3(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor)
17. Where a person who made relevant representations in relation to the application desires to contend:-
- (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section, he may appeal against the decision.
18. In pursuance of regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005) the Licensing Authority must make its determination at the conclusion of the hearing.
19. If the Licensing Authority refuse to grant the application, there is a right of appeal to the Magistrates' Court pursuant to schedule 5 section 18 part 1(a).

Equality Impact

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

Recommendation

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



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STRATIGIC DIRECTOR RESOURCES AND TRANSFORMATION.

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List of Background Papers

Licensing Sub-Committee 2 – 9th June 2015

Report of the Strategic Director Resources and Transformation

Application for Consent to Engage in Street Trading

Mr P R Guy – Hagley Street, Halesowen.

Purpose of Report

1. To consider the application made by Mr Peter Robert Guy for the grant of a consent to engage in street trading at a site in Hagley Street, Halesowen, West Midlands.

Background

2. On the 13th April 2015, Mr Guy, made application for the grant of a Street Trader's Consent to sell shaved ice cones and cups, cooled bottled and canned drinks, between the hours of 10.30 and 17.00 Monday to Saturday inclusive between April and October only. A copy of that application together with a site plan and photograph of the Kiosk has been circulated to the Committee Members and interested parties.
3. On the 15th April 2015, the Town Centre Assistant Events Officer made comments, a copy of that report has been forwarded to the Applicant and Committee Members. None of the other agencies made comments.
4. This application falls within the Council's responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

5. There are no financial implications.

Law

6. 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. Hagley Street, Halesowen is a consent street designated as such by a resolution of the Council. To trade without such a consent is an offence.

7. 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.
8. 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.
9. Where the consent allows the holder to trade from a cart, barrow, or other vehicle, then the consent must specify the location from which the trade/may trade and the times between which or periods for which he may trade.
10. There is no right of appeal against the Council's decision to vary a condition upon which a consent is issued, or refusal to grant or renew a street trader's consent.

Equality Impact

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

Recommendation

13. That the Committee consider Mr Guy's application for the grant of a street trading consent in Hagley Street, Halesowen.



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STRATIGIC DIRECTOR RESOURCES AND TRANSFORMATION

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List of Background Papers