



Licensing Sub-Committee 2

**Tuesday, 26th September, 2017 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 22nd August, 2017 as a correct record.
5. Application for Review of a Premises Licence – Malcolm's Newsagents, 91-93 Watsons Green Road, Dudley (Pages 1 - 4)
6. Application to Vary a Premises Licence – The Black Horse, 52 Delph Road, Brierley Hill, West Midlands (Pages 5 - 9)
7. Application for Grant of Consent to Engage in Street Trading – Mr Stephen Leslie Skidmore (Pages 10 – 11)

A handwritten signature in black ink, appearing to read "Sarah Noun". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chief Executive

Dated: 14th September, 2017

Distribution:

Councillor A Goddard (Chair), K Finch and E Taylor

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- Elected 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.
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Minutes of the Licensing Sub-Committee 2

Tuesday 22nd August, 2017 at 10.00 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor A Goddard (Chair)
Councillors K Finch and E Taylor

Officers:-

R Clark – Solicitor (Chief Executive’s Directorate), B Hughes – Assistant Team Manager and L Rouse – Senior Licensing Clerk (Licensing and Waste Enforcement) (Place Directorate) and K Buckle – Democratic Services Officer (Chief Executive’s Directorate).

4. **Declarations of Interest**

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

5 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 18th July, 2017, be approved as a correct record and signed.

3. **Application for Grant of a New Premises Licence – 35 Church Street, Pensnett, Brierley Hill**

A report of the Strategic Director Place was submitted on an application for the grant of a new premises licence in respect of premises known as 35 Church Street, Pensnett, Brierley Hill.

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

K Kathiravelu – Applicant

S Kanapathi – ARKA Licensing Consultants

D Jenkins – West Midlands Police

G Wintrip and C King – Trading Standards

S Kowolik and M Dummelow – Objectors

Following introductions, the Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council. It was noted that two representations had been submitted by S Kowolik and M Dummelow who were in attendance at the meeting.

The Assistant Team Manager (Licensing and Waste Enforcement) referred to the chequered history and the previous poor management of the business premises that had resulted in two previous licences being revoked, advising that the Applicant's association with the previous licence holder had now ceased.

It was noted that the Applicant had taken a personal Licence course and employed Mr S Kanapathi of ARKA Licensing Consultants as licensing advisor and that there were no objections to the premises licence being granted subject to conditions.

Trading Standards Officers referred to the nine conditions that were intended to be imposed on the licence, which although were quite stringent it was felt were proportionate.

West Midlands Police stated their support for the grant upon the basis that the conditions were imposed upon the licence.

Representations were made by the objectors, who objected to the premises remaining open until 11pm and would prefer a closing time of 10pm, referring to previous anti social behaviour and problems with congregations outside their properties.

Mr S Kanapathi made representations on behalf of the Applicant, stating that the Applicant no longer had any association with the previous licence holder or those who were employed at the premises in the past, being a more competent person than the previous licence holder and would be firm in relation to any potential under age purchases and proxy purchases.

In relation to previous issues surrounding litter the positioning of bins around the premises and the Applicant undertaking regular litter picks was noted.

The Assistant Team Manager (Licensing and Waste Enforcement) requested that a further condition be imposed on the licence, stating that the Applicant would no longer have any association with or have any dealings with SSK Star Limited, the previous Licence holder and the previous management of the premises.

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. No persons associated with the previous management of the premises, SSK Star Limited, or any previous employees of that business (other than Mr. Ketheeswaran Kathiravelu and his wife) shall be employed or concerned in the new business.

Reasons for the Decision

This is an application by Mr. Ketyheeswaran Kathiravelu dated 3rd July, for a new premises licence in respect of Pensnett Convenience Store. He attended today represented by Mr. Kanapathi of ARKA Licensing Consultants.

The applicant seeks a premises licence to sell alcohol at the store Monday to Sunday between 6.00am and 11.00pm.

Representations have been received from the Local Authority. It was concerned that the applicant was employed at the premises after the premises licence had been revoked by the Licensing Sub-Committee, and pending appeal of that decision, although the appeal was withdrawn before the hearing. The Local Authority seeks that conditions be placed on the premises licence, including a condition that no persons associated with the previous management/employee team when the premises were managed by SSK Star Ltd. The Licensing Authority is now satisfied that his previous association with SSK Star Ltd has ceased. It is also impressed that the applicant has obtained a personal licence and has agreed to a number of conditions to be imposed upon a new premises licence:-

CONDITIONS ON PREMISES LICENCE

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 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. No persons associated with the previous management of the premises, SSK Star Ltd, or any previous employees of that business (other than Mr. Ketheeswaran Kathiravelu and his wife) shall be employed or concerned in the new business.

A number of representations have been made by local residents who state that since the premises licence was revoked, the quality of life in the area has improved significantly. There are also two allegations that alcohol is currently being sold "under the counter", albeit it was admitted that this was hearsay only. However the two local residents asked that the terminal hour be 10.00pm rather than 11.00pm and the applicant agreed to this.

The applicant stated that the premises landlord has now changed from 4th May 2017, and is no longer Mr. Packiyathan or SSK Star Limited and confirmed that he has no connection with the previous management. The Landlord lives in Northampton and is named Mr. Ramanathan Peethampram. The applicant and his family live above the shop.

In the light of all of the information heard today, and the fact that the responsible authorities no longer object to the grant of the premises licence if the proposed conditions are imposed on the new premises license, the committee grants the application. The neighbours who have made representations also sought that the terminal hour for the licence should be 10.00pm, and the applicant agreed to this. Therefore the premises license is granted with the proposed conditions attached and for the hours of 6.00am until 10.00pm Monday to Sunday.

The meeting ended at 11.10 am

CHAIR

Licensing Sub-Committee 2 – 26th September 2017

Report of the Strategic Director Place

Application for Review of a Premises Licence

Malcolm’s Newsagents, 91 – 93 Watsons Green Road, Dudley.

Purpose

1. To consider the application for the review of the premises licence in respect of Malcolm’s Newsagents, 91 – 93 Watsons Green Road, Dudley, DY2 7LJ.

Recommendation

2. That the Sub-Committee determine the application for the review of the premises licence received from the Public Protection Manager (Food & Consumer Safety) in respect of the premises known as Malcolm’s Newsagents, 91 – 93 Watsons Green Road, Dudley, West Midlands.

Background

3. Malcolm’s Newsagents was first issued with a premises licence on the 9th September 2005. That licence was transferred into the name of Mr Chandran Thevar on the 1st June 2015 who remains the current licence holder. The current licence is for the following:

Supply of Alcohol	Mondays to Saturdays	08:00	23:00
Supply of Alcohol	Sundays	10:00	22:30
Supply of Alcohol	Good Friday	08:00	22:30
Supply of Alcohol	Christmas Day	12:00	15:00
Supply of Alcohol	Christmas Day	19:00	22:30

4. On the 1st August 2017, an application for the review of the premises licence was received from the Public Protection Manager (Food & Consumer Safety).
5. The Council advertised the application for review of the premises licence in accordance with Licensing Regulation SI, 2005, No. 42, Section 38.
6. On the 2nd August 2017, the Office of Public Health & Wellbeing made representations.

7. On the 16th August 2017, the West Midlands Police made representations.
8. Copies of all representations have been forwarded to the Premises Licence Holder, Committee Members and Interested parties.
9. 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

10. There are no financial implications.

Law

11. 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
12. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
 13. 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 necessary for the promotion of the licensing objectives.
 14. 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.

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

16. 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.
17. 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).
18. 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.
19. 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.
20. 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.
21. 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
22. 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

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

Human Resources/Transformation

- 26. There are no Human Resources/Transformation implications.



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STRATEGIC DIRECTOR PLACE

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List of Background Papers

Licensing Sub-Committee 2 – 26th September 2017

Report of the Strategic Director Place

Application to Vary a Premises Licence

The Black Horse, 52, Delph Road, Brierley Hill, West Midlands

Purpose

- 1 To consider the application for variation of the premises licence in respect of the premises known as the Black Horse, 52, Delph Road, Brierley Hill, West Midlands, DY5 2TP.

Recommendation

2. That the Sub-Committee determine the application for variation of hours in respect of Recorded Music, and variation to layout and conditions of licence.

Background

3. The Black Horse was first issued with a premises licence on the 22nd September 2005, that licence was subsequently transferred into the name of Mr Ross Jonathon Bayley on the 31st October 2016 who remains the current licence holder.
4. The current premises licence is issued for the following:

B:Exhibition of a Film	Monday to Wednesday	10:00	23:00
B:Exhibition of a Film	Thursday to Saturday	10:00	23:30
B:Exhibition of a Film	Sunday	10:00	22:00
B:Exhibition of a Film	Bank Holiday (inc.Fridays & Saturdays) Christmas Day & Boxing Day	10:00	00:30
C:Indoor Sporting Event	Monday to Wednesday	10:00	23:00

C:Indoor Sporting Event	Thursday to Saturday	10:00	23:30
C:Indoor Sporting Event	Sunday	10:00	22:00
C:Indoor Sporting Event	Bank Holiday (inc. Fridays & Saturdays), Christmas Day & Boxing Day	10:00	00:30
E:Performance of Live Music	Monday to Wednesday	10:00	23:00
E:Performance of Live Music	Thursday to Saturday	10:00	23:30
E:Performance of Live Music	Sunday	10:00	22:00
E:Performance of Live Music	Bank Holidays (inc.Fridays & Saturdays) Christmas Day & Boxing Day	10:00	00:30
F:Playing of Recorded Music	Monday to Wednesday	10:00	23:00
F:Playing of Recorded Music	Thursday to Saturday	10:00	23:30
F:Playing of Recorded Music	Sunday	10:00	22:00
F:Playing of Recorded Music	Bank Holidays (inc.Fridays & Saturdays) Christmas Day & Boxing Day	10:00	00:30
H:Ent. of a Similar Description to E,F,G	Monday to Wednesday	10:00	23:00
H:Ent. of a Similar Description to E,F,G	Thursday to Saturday	10:00	23:30
H:Ent. of a Similar Description to E,F,G	Sunday	10:00	22:00

H:Ent. of a Similar Description to E,F,G	Bank Holidays (inc.Fridays & Saturdays) Christmas Day & Boxing Day	10:00	00:30
L:Late Night Refreshment	Mondays to Sundays	23:00	00:00
L:Late Night Refreshment	Bank Holidays (inc.Fridays & Saturdays) Christmas Day & Boxing Day	23:00	01:00
M:Supply of Alcohol	Mondays to Sundays	10:00	00:00
M:Supply of Alcohol	Bank Holidays (inc.Fridays & Saturdays) Christmas Day & Boxing Day	10:00	01:00

5. On the 8th August 2017, Mr Bayley, made application for the variation of the premises licence in respect of the Black Horse, 52, Delph Road, Brierley Hill, West Midlands DY5 2TP..

The application for variation of licence is as follows:

To extend licensing hours for Recorded Music:-

Requested: Monday to Sunday - 23:00 – 00:00

**Currently: Monday to Wednesday - 10:00 – 23:00
Thursday to Saturday - 10:00 – 23:30
Sunday - 10:00 – 22:00**

In addition:

- **To amend plans to include a wooden built structure adjacent to the main building containing a kitchen and small bar.**
- **To amend Condition 3 to allow customers to smoke outside in the Smoking Area after 23:00hrs, with no drinks to be taken outside.**

6. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
7. Representation have been received from Environmental Safety & Health Department, a copy of the representations has been circulated to the applicant, Committee Members and interested parties in accordance with the Licensing Act 2003.
8. 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

9. There are no financial implications.

Law

10. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
11. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - Hold a hearing to consider item, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and,
 - Having regard to the representations, take such of steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.
 - The steps are:-
 - To modify the conditions of licence;
 - To reject the whole or part of the application.
12. Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where an application (or any part of an application) is granted or rejected under Section 35 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to :-
 - the applicant;
 - any person who made relevant representations in respect of the application and
 - the Chief Officer of Police for the police area in which the premises are situated.
13. 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.

14. In pursuance of schedule 5, section 4 if the Licensing Authority refuse to grant the application vary the premises licence, there is a right of appeal to the Magistrates' Court.
15. In pursuance of schedule 5, section 4(2) where the Licensing Authority grant an application to vary a premises licence in whole or in part. The applicant may appeal against any decision to modify the conditions of the licence under subsection 4(a) of section 35 of the Licensing Act 2003.
16. In pursuance of schedule 5 section 4(3) where a person who made relevant representations to the application desires to contend:-
 - a) that any variation made ought not to have been made, or
 - b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified item in a different way, under subsection 4(a) of section 35 of the Licensing Act.

They have the right of appeal to the Magistrates' Court.

Equality Impact

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

Human Resources/Transformation

20. There are no Human Resources/Transformation implications



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Strategic Director Place

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List of Background Papers

None

Licensing Sub-Committee 2 – 26th September 2017

Report of the Strategic Director Place

Application for Grant of Consent to Engage in Street Trading

Mr Stephen Leslie Skidmore.

Purpose

1. To consider the application made by Mr Stephen Leslie Skidmore for the grant of a consent to engage in street trading at a site in King Street, Dudley, to sell Pet Food, Tuesday to Saturday inclusive between the hours of 9.00 a.m. and 4.00 pm.

Recommendation

2. That the Committee consider Mr Skidmore's application for the grant of a street trading consent.

Background

3. On the 3rd August 2017, Mr Skidmore made application for the grant of a Street Trader's Consent to sell Pet Food, in King Street, Dudley, Tuesday until Saturday inclusive between the hours of 9.00 a.m. and 4.00 pm. A copy of the application along with photographs of the site and vehicle from which Mr Skidmore intends to trade has been forwarded to Committee Members and interested parties. Details of the application has also been posted on the Licensing Web page.
4. Representations have been received from Building Control, the Highway Department, the Communications Department and the Visitor Economy and Culture Department. Copies of which have also been forwarded to the Applicant and Committee Members.
5. 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

6. There are no financial implications.

Law

7. 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. King Street, Dudley is a consent street designated as such by a resolution of the Council. To trade without such consent is an offence.
8. 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.
9. 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.
10. Where the consent allows the holder to trade from a cart, barrow, or other vehicle, then the consent must specify the location from which they may trade and the times between which or periods for which they may trade.
11. There is no right of appeal against the Council's decision to vary a condition upon which consent is issued, or refusal to grant or renew a street trader's consent.

Equality Impact

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

Human Resources/Transformation

14. There are no Human Resources/Transformation implications.



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List of Background Papers