

Meeting of the Licensing Sub-Committee 3
Tuesday 21st February, 2023 at 10.00am
In Conference Room 9, Saltwells Education Development Centre,
Bowling Green Road, Netherton

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 20th December, 2022 as a correct record – (Pages 7 – 15)

The following application is to be considered under the provisions of the Licensing Act 2003:-

5. Application for Review of a Premises Licence – News Express (The Wine Cellar) 15-17 Abbey Road, Gornal, Dudley, DY3 2PQ - (Pages 16 – 21)
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: 13th February, 2023

Distribution:

Members of the Licensing Sub-Committee 3

Councillor A Taylor (Chair)

Councillors T Creed and K Finch

Please note the following concerning meetings at Saltwells Education Development Centre:

To continue to protect vulnerable people, you are asked to note the following information when attending meetings:-

- Do not attend if you feel unwell; if you have tested positive for Covid-19; if you are self-isolating or if you suspect that you are symptomatic.
- Windows/doors will be opened to provide adequate ventilation.
- Sanitise your hands when arriving and leaving the building and wash your hands regularly.
- People suffering from long term conditions or living with vulnerable people are encouraged to wear face masks in meeting rooms, communal areas and when moving around the building. Surgical masks are available at reception.
- All people are encouraged to be vaccinated to limit any potential ill-health effects.
- Be respectful of everyone's personal space and preferences when you attend meetings.



- If you cannot maintain distancing or in a crowded environment, please wear a mask

Toilets

- Toilet facilities are available on site and are subject to safety measures that are in place. All the toilets have hand washing facilities.

No smoking

- There is no smoking on the premises in line with national legislation. It is an offence to smoke in or on the premises. You cannot use e-cigarettes and/or similar vaping devices.

In Case of Emergency

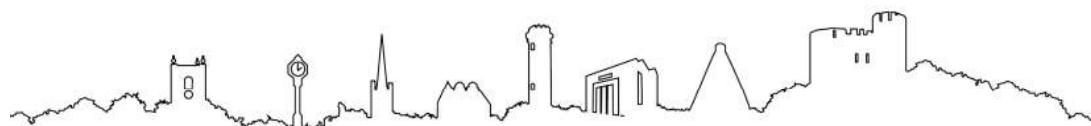
- In the event of the alarms sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.

Submitting Apologies for Absence

- Elected Members can submit apologies by contacting Democratic Services (see our contact details below). Members wishing to appoint a substitute should notify Democratic Services as soon as possible in advance of the meeting. Any substitute Members must be eligible to serve on the meeting in question (for example, he/she must have received the training required by the Council).

Private and Confidential Information

- Any 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. Confidential papers should be handed to Democratic Services for secure disposal. If you choose to retain the documents you should ensure that the information is securely stored and destroyed within six months.



General

- Public Wi-Fi is available.
- 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.
- Information about the Council and our meetings can be viewed on the website www.dudley.gov.uk

If you need advice or assistance

- If you (or anyone you know) requires assistance to access the venue, or if you have any other queries, please contact Democratic Services - Telephone 01384 815238 or E-mail Democratic.Services@dudley.gov.uk

If you are reading these documents on an electronic device, you have saved the Council £7.00 (on average) per printed agenda and helped reduce the Council's carbon footprint

Licensing Sub-Committee Procedure

- Chair to welcome parties and introduce Members and Officers
- Establish who the parties are and any representatives
- Chair to confirm that all parties have had disclosure of all documents that the Committee has before them and been allowed sufficient opportunity to read them prior to the meeting.
- Presenting Officer of the Local Authority or Solicitor to present the report to the Sub-Committee
- Relevant Authority to present their evidence and the Chair will then ask if any of the following have questions for the Officer:-
 - Objectors/or their representative
 - Applicant or representative
 - Sub-Committee Members and Legal Advisor
- Objectors or their representative/nominated person to present his/her case (including Ward Members)
 - Any witnesses to be called
 - Each witness to be questioned through the Chair in the following order:-
 - Representative of objectors (if present), if no representative, the objectors
- The Chair will then ask the following if they have any questions for the representative or the objectors:-
 - Presenting Officer Local Authority (or Solicitor)
 - Applicant or Representative
 - Sub-Committee Members and Legal Advisor
- Applicant or representative to introduce his or her case
 - Any witnesses for the applicant to be called
 - Each witness to be questioned through the Chair in the following order:-
 - Representative of Applicant (if present)
 - Presenting Officer Local Authority/Solicitor
 - Relevant Authority



- Objector or Representative
- Sub-Committee Members and Legal Advisor

- Presenting Officer of the Local Authority/Solicitor to sum up.
- Objectors/Representative to sum up
- Applicant or representative to sum up (must make final comments)
- Legal Advisor indicates to parties details of legal advice to be given to Sub-Committee
- Parties asked if they have had a fair hearing
- All parties, together with any members of the public to withdraw
- Sub-Committee to make their decision
- All parties invited to return and the Chair reads out the decision and the reasons for the decision.

**Minutes of Licensing Sub-Committee 3
Tuesday 20th December, 2022 at 10.00am
In the Council Chamber, The Council House, Dudley**

Present:

Councillor A Taylor (Chair)
Councillors T Creed and K Finch

Officers:

N Slym – Assistant Team Manager (Licensing and Waste Enforcement) (Directorate of Public Realm); R Clark – Principal Solicitor and K Taylor – Senior Democratic Services Officer (Directorate of Finance and Legal).

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 held on 25th October, 2022, be approved as a correct record and signed.

6. Application to Vary a Premises Licence – The Royal, 54 Castle Street, Coseley

A report of the Interim Director of Public Realm was submitted on an application to vary a premises licence in respect of the premises known as The Royal, 54 Castle Street, Coseley.

The following persons were in attendance at the meeting:-

Mr A Green (Solicitor – Gosschalks LLP)
Mr M Finnemore (Regional Manager – Craft Union Pub Company Ltd)
Mr G Chase (Licensing Manager – Stonegate Group)
Councillor P Drake – Ward Member and Objector.

Following introductions, the Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council, advising that the application proposed the variation of the premises licence as follows:

Supply of Alcohol

Friday and Saturday – 10.00 until 01.00
Sundays – 12.00 until 23.00

Christmas Day – 12.00 until 23.00

Live Music/Recorded Music

Friday and Saturday – 11.00 until 01.00
Sundays – 12.00 until 23.00

To remove/replace conditions contained in the premises licence as outlined in the application.

Councillor P Drake, on behalf of local residents, outlined the reasons for his objection, and in doing so stated that although there were no concerns of the establishment, the proposed variation was not considered appropriate for the local area. It was anticipated that the requested additional hours could result in public nuisance and be detrimental to residents living within close proximity to the premises, in particular those residing at the nearby assisted living accommodation, many of whom were elderly and vulnerable. It was preferred that the premises continued with the existing licensable hours, however a reduction in the supply of alcohol and regulated entertainment until midnight would be acceptable.

Mr Green, on behalf of his client confirmed that the current operator had managed the premises for over 20 years and no complaints or issues had been made during that time, and that the purpose of the application was to give The Royal the flexibility within the operation of the premises. Following discussions with West Midlands Police and the Environmental Health Officer, additional conditions had been voluntarily agreed by the applicant to further enhance the application. The Sub-Committee were requested to consider that there had been no objections received from responsible authorities during the determination of the application.

Reference was made to the objection raised by Councillor P Drake in relation to noise nuisance, and Mr Green advised the Sub-Committee that prominent, clear and legible notices would be displayed at exits requesting patrons to respect the needs of local residents and vacate the premises and area quietly. An additional condition would also be attached to the operating schedule in that all windows and doors (including fire doors) to the premises would be kept closed, except doors used for access and egress, during any regulated entertainment.

In responding to a question raised by Councillor T Creed, Mr Green confirmed that an allowance of up until 30 minutes would be given to patrons vacating the premises after the time permitted of the supply of alcohol.

Mr Finnemore confirmed that The Royal was regarded as a good family pub within the local community and was predominately visited by local residents. It was reiterated that there had been no issues or complaints made in relation to the premises and there was no intention to change the operation or brand. It was further noted that patrons with children were asked to vacate the premises at 7pm.

Following a suggestion by the Sub-Committee, Mr Green agreed on behalf of his client to a reduction in the hours sought for the use of regulated entertainment at the premises on Fridays and Saturdays until midnight. This variation would address concerns raised in relation to potential noise nuisance.

In responding to questions raised by Councillor T Creed, Mr Green believed that the licensing hours of nearby premises were later than those currently operated at The Royal and anticipated that the requested additional hours would not attract a different clientele. It was further noted that there were five members of staff currently employed at the premises and that should the application be granted, this would not require the appointment of further staff.

Mr Finnemore, in responding to the Principal Solicitor, confirmed that a live singer was booked at the premises each Sunday from 4pm for a short period and a karaoke/band booked each Saturday until 11pm. It was again reiterated that the intention of the variation was not to change the business but to provide future flexibility. It was also confirmed that the premises had double glazed windows and shutters.

Following summing up, all 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 Principal Solicitor outlined the decision.

Resolved

That following consideration of the information contained in the report submitted and presented at the meeting, the application for a variation of the premises licence in respect of the premises known as The Royal, Castle Street, Coseley be granted, subject to the modified hours of supply of alcohol on Fridays and Saturdays, as outlined below:-

Supply of Alcohol

Friday and Saturday – 10.00 until 00.30

Sundays – 12.00 until 23.00

Christmas Day – 12.00 until 23.00

Live Music/Recorded Music

Friday and Saturday – 11.00 until 00.00

Sundays – 12.00 until 23.00

To remove/replace conditions contained in the premises licence as outlined in the application.

The applicant was informed of their right of appeal.

7. **Notice of Temporary Event – Conyers Yard, Station House, Station Yard, Stourbridge**

It was noted that this item had been withdrawn by the applicant prior to the meeting.

The meeting ended at 11.05am

CHAIR

**Minutes of Licensing Sub-Committee 3
Tuesday 20th December, 2022 at 11.10am
In the Council Chamber, The Council House, Dudley**

Present:

Councillor A Taylor (Chair)
Councillors T Creed and K Finch

Officers:

N Slym – Assistant Team Manager (Licensing and Waste Enforcement) (Directorate of Public Realm); R Clark – Principal Solicitor and K Taylor – Senior Democratic Services Officer (Directorate of Finance and Legal).

8. Declarations of Interest

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

9. Application for a Licensed Premises Gaming Machine Permit – Hollywood Bowl, Unit U100, Merry Hill Centre, Brierley Hill

A report of the Interim Director of Public Realm was submitted in respect of an application for the grant of a Licensed Premises Gaming Machine Permit for five Category C machines and thirty-five Category D machines at the premises known as Hollywood Bowl, Unit U100, Merry Hill Centre, Brierley Hill.

The following persons were in attendance at the meeting:-

Mr E Macgregor (Solicitor – TLT LLP)

Mr T Stone (Head of Amusements – Original Bowling Company Limited Trading)

Mr D Lewis (Chief Operating Officer - Original Bowling Company Limited Trading).

Following introductions, the Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council, and it was noted that a map detailing the indicative location of the gaming machines was circulated to the Sub-Committee prior to the meeting.

Mr E Macgregor then presented the case on behalf of Original Bowling Company Limited Trading, and in doing so provided a background to the organisation and the premises, which once operational would provide twenty-four bowling lanes, a bar and dining facilities. The Sub-Committee were advised of the range of policies and procedures implemented by the organisation in dealing with Category C machines including extensive training programmes to ensure that staff were adequately trained, machines located in the correct position; appropriate signage displayed and the monitoring of the working condition of machines.

It was noted that digital Category C machines would be installed which required users to self-certify that they were not underage. All Category C machines would be positioned so that they were visible by all staff from the bar area and could be easily monitored. It was reported that whilst the number of Category D machines appeared excessive, this included a mix of player positions.

Resolved

That, following consideration of the information contained in the report submitted, the grant of a Licensed Premises Gaming Machine Permit for five Category C machines and thirty-five Category D machines at the premises known as Hollywood Bowl, Unit U100, Merry Hill Centre, Brierley Hill, be approved.

10. Application for Grant of Consent to Engage in Street Trading – Frank Smith (Dudley) Ltd – Dudley Town Centre

A report of the Interim Director of Public Realm was submitted in respect of an application made by Mr M Smith, trading as Frank Smith (Dudley) Ltd for the grant of a consent to engage in street trading in Dudley Town Centre.

The Assistant Team Member (Licensing and Waste Enforcement) informed the Sub-Committee that having spoken to the applicant, there had been some confusion regarding the hearing, and therefore confirmed that he would be unavailable to attend the meeting and requested that the Sub-Committee consider the application in his absence or defer if there were any questions that required further clarification.

Having decided to hear the matter in the applicant's absence, it was

Resolved

That, following careful consideration of the information contained in the report submitted, the application made by Mr M Smith, trading as Frank Smith (Dudley) Ltd for the grant of a consent to engage in street trading in Dudley Town Centre, be approved.

11. **Application for House to House Collections Licence – City and Sport (Ukraine)**

A report of the Interim Director of Public Realm was submitted on an application for a House to House Collections Licence received from Clothing Connection Ltd on behalf of City and Sport (Ukraine).

The Assistant Team Member (Licensing and Waste Enforcement) informed the Sub-Committee that notification had been received from the applicant confirming that they would be unavailable to attend the meeting and requested that the Sub-Committee consider the application in their absence.

Having decided to hear the matter in the applicant's absence, it was

Resolved

That, following consideration of the information contained in the report submitted, and that further information contained in Section 2(f) of the House to House Collection Act 1939 had not been provided, the application for the grant of a House to House Collections Licence in respect of Clothing Connection Ltd on behalf of City and Sport (Ukraine), be refused.

The meeting ended at 11.45am

CHAIR

Meeting of the Licensing Sub-Committee 3 – 21st February 2023

Report of the Interim Director of Public Realm

Application for Review of a Premises Licence
News Express (The Wine Cellar) 15-17 Abbey Road, Gornal,
Dudley, DY3 2PQ.

Purpose

1. To consider the application for the review of the premises licence in respect of News Express (The Wine Cellar) 15-17, Abbey Road, Gornal, Dudley, DY3 2PQ.

Recommendation

2. That the Sub-Committee determine the application for the review of the premises licence received from Environmental Health and Trading Standards, in respect of the premises known as the News Express (The Wine Cellar) Abbey Road, Gornal, Dudley.

Background

3. The News Express (The Wine Cellar) was first issued with a premises licence on the 25th March 2008, that licence was transferred on the 29th July 2021 into the name of Mr Amit Singh. The premises licence is issued for the following days and times:

Supply of Alcohol/Premises open to the public

Monday to Sunday inc. 07.00 -23.00

4. On the 3rd January 2023, an application for the review of the premises licence was received from the Public Protection Manager, Environmental Health and Trading Standards, the grounds for the review relate to the prevention of crime and disorder and protection of children from harm. A copy of that application has been forwarded to the Premises Licence Holder, Committee Members, Relevant

Authorities and Interested Parties in accordance with the Licensing Act 2003.

5. The Council advertised the application for review of the premises licence in accordance with Licensing Regulation SI, 2005, No. 42, Section 38.
6. Representations in support of the application for review have been received from Public Health & Wellbeing and the West Midlands Police.
7. Letters of support from 6 local residents have been received in support of the Premises Licence Holder. Copies of all representations have been forwarded to Committee Members and Interested Parties.
8. These premises have been the subject of a review by the Committee previously on the 28th June 2022, the committee resolved as follows:

The following conditions be applied to the premises licence:

CCTV is to be installed at the premises. This shall be capable of retaining images for 30 days. CCTV images must be made available for playback in store to the Police or Council Licensing Officers at any time the store is open. CCTV images must be provided to the Police or Council Licensing Officers within 48 hours of the GDPR complaint request.

A member of staff capable of operating the CCTV and downloading and/or playing images shall be present at the premises at all times when it is open.

A challenge 25 policy shall be operated at the premises.

All staff selling age restricted products shall be given training in the promotion of the licensing objectives and the challenge 25 policy. Refresher training shall be provided at least every six months. A record of training shall be maintained and retained for a period of at least three years. Copies of training records shall be provided to the Council Licensing Officers within 48 hours of a request being made for them.

A log shall be kept detailing all refused sales of alcohol. The log must include the date and the time of the refused sale and the name of the member of staff who refused the sale. The log shall be retained for a period of three years. Copy of the refusal log shall be provided to

Council Licensing Officers within 48 hours of the request being made for it.

Finance

9. There are no financial implications.

Law

10. The law relating to the review of licences is governed by the Licensing Act, 2003 Section 52(1).

52(1) This section applies where:-

- a) The relevant licensing authority receives an application made in accordance with Section 51.
 - b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
 - c) the authority has complied with any requirement imposed on it under subsection (3)(b) or (d) of that section
11. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
12. The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.
13. The steps are -
- a) to modify the conditions of the licence;
 - b) to exclude a licensable activity from the scope of the licence;
 - c) to remove the designated premises supervisor;
 - d) to suspend the licence for a period not exceeding three months;
 - e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

14. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
15. Where the authority takes a step mentioned in subsection (4) (a) or (b) it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
16. In this section “relevant representations” means representations which -
 - a) are relevant to one or more of the licensing objectives, and
 - b) meet the requirements of subsection (8).
17. The requirements are -
 - a) that the representations are made –
 - i) by the holder of the premises licence, a responsible authority or an interested party, and
 - ii) within the period prescribed under section 51(3)(c)
 - b) that they have not been withdrawn, and
 - c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
18. Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
19. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to -

- a) the holder of the licence
 - b) the applicant
 - c) any person who made relevant representations, and
 - d) the chief officer of police for the police area (or each police area) in which the premises are situated.
20. A determination under this section does not have effect -
- a) until the end of the period given for appealing against the decision, or
 - b) if the decision is appealed against, until the appeal is disposed of
21. Pursuant to schedule 5 part 1, section 8(2)
- An appeal may be made against the decision of the committee by –
- a) the applicant for the review
 - b) the holder of the premises licence or
 - c) any other person who made relevant representations in relation to the application for review.

Risk Management

22. There are no material risk implications.

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/Organisational Development

26. There are no organisational development/transformation implications.

Commercial/Procurement

27. There are no commercial/procurement implications.

Environment/Climate Change

28. There are no environment/climate change implications.

Council Priorities and Projects

29. This application falls within the Council's responsibility for Licensing as a direct link to the Council's key corporate priority to support stronger and safer communities.



Andy Vaughan
Interim Director of Public Realm

Report Author: Mr S Smith
Telephone: 01384 815377
Email: simon.smith@dudley.gov.uk

Appendices

None

List of Background Documents

None