

**Licensing Sub-Committee 4 – 29<sup>th</sup> July, 2014**

**Report of the Director of Corporate Resources**

**Application for Review of a Premises Licence**

**Purpose of Report**

1. To consider the application for the review of a premises licence in respect of The Lake Discount Stores, 18 Lake Street, Lower Gornal, Dudley, West Midlands.

**Background**

2. The Lake Discount Stores, was first issued with a premises licence on the 19<sup>th</sup> September, 2005.
3. The current premises licence is issued for the following:-

Sale of Alcohol:	Monday to Saturday	08.00-23.00
	Sundays	10.00-22.30
	Good Friday	08.00-22.30
	Christmas Day	12.00-15.00
	Christmas Day	19.00-22.30
4. On the 22<sup>nd</sup> August, 2013, an application for the review of the premises licence was received from the Trading Regulation and Enforcement Manager. A copy of that application was circulated to Committee Members 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 Regulations.
6. On the 30<sup>th</sup> August, 2013, the West Midlands Police made representations.
7. On the 19<sup>th</sup> September 2013 the Director of Public Health made representations.
8. The premises licence holders at that time were Mr. S.S. Bahia and Mrs. K.K. Bahia.
9. This matter was considered by the Licensing Sub-Committee on the 15<sup>th</sup> October 2013, the Sub-Committee resolved at the request of the applicant that the matter

be deferred. That matter was again considered, by the Sub-Committee on the 29<sup>th</sup> October 2013, the Committee again resolved that the matter be deferred in order that both premises licence holders could be in attendance.

10. This matter was again considered by the Licensing and Safety Sub-Committee on the 5<sup>th</sup> November, 2013, the Committee resolved as follows:

That following careful consideration of the information contained in the report submitted, and as reported at the meeting, the premises licence issued to Lake Discount Stores, 18 Lake Street, Lower Gornal, Dudley, be suspended for a period of fourteen days. This suspension of licence was specifically to allow the premises licence holders time to implement the below conditions.

Conditions attached to the premises licence:-

#### Conditions

- (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 that 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' CCTV shall be reviewed 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 the age of 18, shall be refused service.
  - (10) That a till prompt system be installed.
- 11. The above decision was appealed to the Magistrates' Court within the 21 days allowed. That appeal was subsequently withdrawn on the 10<sup>th</sup> April 2014, following the presentation to the appellant of compelling evidence from the responsible Authorities. The Authorities costs were met by the appellant. The licence was therefore suspended for fourteen days until the 24<sup>th</sup> April 2014.
  - 12. On the 9<sup>th</sup> June, 2014, the Public Protection Manager (Food and Consumer Safety) made an application for a further review of the premises licence. A copy of that application has been circulated to Committee Members and interested parties in accordance with the Licensing Act, 2003.
  - 13. The Council has advertised the application for review of the premises licence in accordance with Licensing Regulation S1, 2004, No. 42, Section 38. A copy of that notice is attached to this report as Appendix 1.
  - 14. Confirmation that the application has been served on the premises licence holders and relevant authorities has been received.
  - 15. On the 24<sup>th</sup> June, 2014, the Assistant Director, Law and Governance, made representations.
  - 16. On the 30<sup>th</sup> June 2014, the Office of Public Health made representations.
  - 17. On the 7<sup>th</sup> July 2014, the West Midlands Police, made representations.
  - 18. Copies of all representations have been circulated to the Applicant, Committee Members, Interested Parties and the Premises Licence Holders.
  - 19. The current premises licence holders are Mr. S.S. Bahia and Mrs. K.K. Bahia.
  - 20. 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**

21. There are no financial implications.

## **Law**

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

Determination of application for review

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
- (2) Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
- (3) The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
- (4) 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.
- (5) Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
- (6) 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,
- (7) 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).
- (8) 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.
- (9) 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.
- (10) 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.
- (11) 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

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.

### **Recommendation**

- 26. That the Sub-Committee determine the review of the premises licence in respect of The Lake Discount Stores, 18 Lake Street, Dudley, West Midlands, DY3 2AU.



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DIRECTOR OF CORPORATE RESOURCES

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### **List of Background Papers**