

LICENSING SUB-COMMITTEE 2

TUESDAY 25th MARCH, 2014

**AT 10.00 AM
COUNCIL CHAMBER
COUNCIL HOUSE
PRIORY ROAD
DUDLEY**

If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you

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IMPORTANT NOTICE

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Thank you for your co-operation.

Your ref:

Our ref:
KT

Please ask for:
Karen Taylor

Telephone No.
01384 818116

13th March, 2014

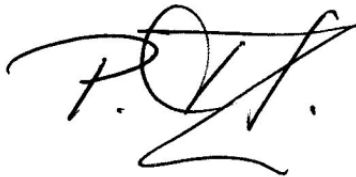
Dear Member

Meeting of the Licensing Sub-Committee 2 – Tuesday 25th March 2014

You are requested to attend a meeting of the Licensing Sub-Committee 2 to be held on Tuesday 25th March 2014 at 10.00 am in the Council Chamber, Council House, Priory Road to consider the business set out in the Agenda below.

The agenda and reports for this meeting can be viewed on the Council's internet site www.dudley.gov.uk and follow the links to Meetings and Decisions.

Yours sincerely



Director of Corporate Resources

A G E N D A

1 APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitutes for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive declarations of interest in accordance with the Members' code of conduct

4. MINUTES

To approve as a correct record and sign the minutes of the meeting held on 14th January, 2014 (copy attached).

5. APPLICATION FOR GRANT OF A STREET COLLECTION PERMIT – MORE MASCOTS PLEASE CIC (PAGES 1 - 3)

To consider a report of the Director of Corporate Resources.

6. APPLICATION FOR REVIEW OF PREMISES LICENCE – SUPERSAVE, 79 RUSSELLS HALL ROAD, DUDLEY (PAGES 4 -9)

To consider a report of the Director of Corporate Resources.

7. TO ANSWER QUESTIONS UNDER COUNCIL PROCEDURE RULE 11.8 (IF ANY)

To: All Members of Licensing Sub-Committee 2, namely:

Councillor Russell
(Chair)

Councillor Cowell

Councillor Taylor

LICENSING SUB-COMMITTEE 2

Tuesday 14th January, 2014 at 10.25 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Russell (Chair)
Councillors Cowell and Taylor

Officers: -

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

9 DECLARATIONS OF INTEREST

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

10 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 17th September, 2013, be approved as a correct record and signed.

11 CHANGE IN ORDER OF BUSINESS

Pursuant to Council Procedure Rule 13(c) it was:-

RESOLVED

That the remaining items of business be considered in the following order:-

Agenda Item Nos 6, 5 and 7.

12 APPLICATION FOR VARIATION OF LICENCE – BANDIT QUEEN GENTLEMEN'S CLUB, 93 KING STREET, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the conditions of licence in respect of the sexual entertainment venue licence issued to Mr D S Dhillon.

Mr D S Dhillon, Applicant, was in attendance at the meeting together with his Solicitor, Mr T Bytheway.

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

Mr Bytheway then presented the case on behalf of the applicant, and in doing so indicated that the business had been established for eight years with no complaints, and that the applicant had a good relationship with West Midlands Police.

He further stated that when Mr Dhillon had applied for his licence, a number of conditions were attached to the licence in accordance with legislation that prevented all sexual entertainment venue licence holders from advertising their premises.

Mr Bytheway stated that a number of sexual entertainment establishments in other local authorities had been granted an alteration in their conditions that allowed them to advertise their premises, some of which were advertised in Dudley.

It was further noted that when Mr Dhillon renewed his licence in 2013, the legislation had been amended resulting in a number of restrictions being removed from the conditions that permitted advertising of the premises compliant with the Advertising Standards Authority. However, Mr Dhillon did not pursue this as he wanted to inform the local authority of his intentions and gain approval from the Sub-Committee.

Mr Bytheway further stated that the main reason the matter was brought before the Sub-Committee was to seek clarification in respect of two conditions, namely;

(1) Condition 3 (2) (d) – The licence holder shall not permit the display outside of the premises photographs or other images, which indicate or suggest that relevant entertainment takes place in the premises.

(2) Conditions 22 – The licensee shall not allow the use of vehicles including limousines for the promotion of the relevant entertainment.

Reference was made to the draft advertisement submitted by Mr Dhillon, as outlined in appendix 3 of the report submitted, and Mr Bytheway stated that a number of other sexual entertainment establishments and some retailer's advertisements were more inappropriate.

In responding to a question by a member; Mr Bytheway stated that the lack of advertising had a notable impact on the business, as the premises was the only sexual entertainment venue in Dudley, and therefore potential customers would not be aware of its existence. He also stated that in view of the premises having been opened since 2006, it was an asset to the town centre.

In responding to a question by a member in relation to should the Sub-Committee be minded to grant the application, whether the applicant would be agreeable to certain restrictions such as advertising in areas by schools. Mr Bytheway stated that Mr Dhillon would not want to advertise his premises in areas that could cause offence, however the intended advert would not highlight the entertainment inside the premises and was not inappropriate unlike some retailers.

In responding to a question by the Chair; Mr Bytheway stated that the advert had been produced professionally, and although it was Mr Dhillon's intention to use the advert, like most businesses, Mr Dhillon would change the advert in the future to encourage more customers. He further stated that Mr Dhillon would not advertise images of girls wearing provocative clothing, as this would attract the wrong customers to the premises.

Following further discussion in respect of the clarification sought in relation to the conditions of licence, 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 alteration of the conditions of licence in respect of the sexual entertainment venue licence issued to Mr D S Dhillon, be granted.

REASONS FOR DECISION

This is an application by Mr Daljinder Singh Dhillon for the alteration of the conditions on the sexual entertainment venue licence, granted 7th June, 2011, to permit advertisement of the licensed premises. The conditions have been previously amended and the current conditions are dated 10th October, 2013.

The Sub-Committee accepts that Mr Dhillon is permitted to advertise his premises provided he complies with the licence conditions and the Code of Practice of the Advertising Standards Authority. In order to clarify the effect of the current conditions, the Sub-Committee modifies them as follows:

1. Condition 3 (2) (d) shall be modified to insert, after, “or other images” the wording (excluding advertising which complies with the relevant code of practice as issued by the Advertising Standards Authority).
2. Condition 22 shall be modified so that the current condition shall be referred to as 22 (a) and there shall be inserted a new 22 (b) to read, “Vehicles may however be used for the sole purpose of displaying advertisements about the premises”.

13 APPLICATION FOR REVIEW OF PREMISES LICENCE – HIGH STREET EXTRAS (PREMIER), 79 HIGH STREET, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of High Street Extras (Premier), 79 High Street, Dudley.

Mrs U Kalaichelvan, Premises Licence Holder, was in attendance at the meeting together with her representative, Mr S Panchal, Mr V Kalaichelvan, Designated Premises Supervisor, Mr P Selvaraj, Manager, and a supporter.

Also in attendance were Mr C King, Principal Trading Standards Officer, Directorate of the Urban Environment; Ms D McNulty, Office of Public Health; and Ms K Turley and WPC A Baldwin, both Licensing Officers from West Midlands Police.

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

Mr King then presented the representations of Trading Standards and in doing so highlighted that the grounds of the review had been based on the serious undermining of the two licensing objectives, namely, the prevention of crime and disorder and the protection of children from harm due to the poor management of the premises following the sale of alcohol to a person under the age of eighteen.

Mr King informed the Sub-Committee that on 27th September, 2013, a fifteen year old male child test purchaser had been sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

It was noted that on 3rd June, 2011 a tobacco test purchase was conducted at the premises resulting in a sale being made to the underage test purchase volunteer.

It was further noted that on 16th July, 2011 and 26th August, 2011, an alcohol test purchase was conducted at the premises, with no sale being made.

On 27th May, 2011, an officer from Trading Standards carried out an advisory visit to the premises and again on 19th July, 2012. On 24th July, 2012, the officer spoke to Mr Kalaichelvan. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mr Kalaichelvan was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Kalaichelvan was also provided with an information pack that included an advice booklet, a Challenge 25 poster, a refusals register, a poster about proof of age and a sample Proof of Age Standards Scheme card. He was also requested to ensure that it was brought to the attention of all staff to ensure that they were aware of their obligations under the Licensing Act 2003, Mr Kalaichelvan also signed an ARP form 0635 to acknowledge receipt of the information pack during the visit.

On 19th April, 2013, a tobacco test purchase was conducted at the premises, with no sale being made.

It was noted that a further advisory visit to the premises was carried out by an officer from Trading Standards on 18th September, 2013, to provide advice to help prevent the underage sale of age restricted products.

Mr King further stated that on 27th September, 2013, Trading Standards together with West Midlands Police, carried out a test purchase exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a fifteen year old male child test purchase volunteer purchased a 330ml bottle of Guinness Foreign extra beer with 7.5% alcohol by volume. The seller made no attempt to ask the age of the volunteer, and did not ask for identification.

Following the sale, and having returned to the premises, it was discovered that the individual who sold the alcohol to the test purchaser had been a Mr P Selvaraj.

When cautioned Mr Selvaraj denied making the sale, and continued to do so, despite having been informed that the sale had been witnessed by an officer.

On inspection of the premises, it was noted that there were several Age Restricted Products posters displayed and a "Challenge 21" policy in place, however the refusals register could not be located. Mr Selvaraj was then issued with a Fixed Penalty Notice.

In concluding, Mr King stated that should the Sub-Committee be minded not to revoke or suspend the premises licence, they could consider including additional conditions to the licence. A full list of the proposed conditions had been circulated to all parties prior to the meeting.

Ms McNulty then presented the representations of Public Health, which had been circulated to all parties in accordance with the Licensing Act 2003. She made particular reference to the number of well-documented impacts on the health of adolescents as a consequence of alcohol consumption.

It was noted that in the opinion of Ms McNulty, the sale of alcohol to underage young people was considered to be very serious and supported the recommendations made by Trading Standards.

Ms Turley then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that although there were no logs to the premises, local officers had visited on enquiries and the staff were extremely unhelpful in regard to accessing the CCTV, and there was no one available to operate it or download footage.

She further stated that due to the premises being located on the high street, it was known that a number of the local drinkers were seen purchasing alcohol from the shop, and therefore it was considered that the premises contributed to the anti-social behaviour suffered in the town and market areas.

Regarding the representations of Trading Standards; Mr Panchal asked Mr King whether the premises had made any further sales to underaged persons since 27th September, 2013, and suggested that the premises had been compliant as there had been three test purchase exercises that resulted in no sale being made. In responding, Mr King stated that he was not aware of any additional sales, and that the facts had been presented to the Sub-Committee. Mr King further stated that he did not agree that the premises had been compliant as there had been two failed test purchases since June, 2011.

Mr Panchal then presented the case on behalf of Mrs Kalaichelvan, and in doing so stated that the premises had operated for a long time, and that during the sale of alcohol to the underage test purchaser on 27th September, 2013, Mr Selvaraj was on the telephone and therefore did not request identification.

He further reported that following the sale, a refusals register had been implemented, the premises now operated a "Challenge 25" policy, a number of posters displayed, a training manual developed and Mr Selvaraj had received further training.

Reference was made to the conditions suggested by Trading Standards, in particular, that Mrs Kalaichelvan was agreeable to the conditions and Mr Panchal assured the Sub-Committee that staff would be fully trained in regard to CCTV.

It was noted that Mr Selvaraj had contacted West Midlands Police on Sunday 12th January, 2014, after a number of children had attempted an underage sale.

At this juncture, Mr Panchal submitted a number of conditions that the Sub-Committee may wish to attach to the premises licence.

Mr Panchal further reported that the current Designated Premises Supervisor, Mr Kalaichelvan, would be changed in the near future, and the proposed Designated Premises Supervisor was undergoing training and applying for her personal licence.

In concluding, Mr Panchal asked the Sub-Committee to consider the three previous test purchase exercises when no sale had been made, and that it was unfortunate that the sale on 27th September, 2013 had taken place.

In responding to a question by a member in relation to the training manual and that it appeared to have not been written in; Mr Panchal confirmed that the manual had not yet been used as it was intended to be used once the replacement of the Designated Premises Supervisor had taken place.

In responding to a question by the Chair; Mr Panchal stated that Mr Selvaraj had been reprimanded following the sale and that he did not suggest that by being on the telephone was an acceptable explanation for the sale to have occurred. He further stated that the police were visiting the premises later today to view the CCTV.

In responding to a question by a member, it was noted that there were six members of staff in total at the premises, however the staff would not work together at the same time resulting in only two members of staff in the premises.

In responding to a question by Mr King; Mr Panchal stated that Mr Selvaraj had initially denied the sale, as he could not remember, however he had since accepted the sale and apologised. It was noted that Mr Selvaraj had paid the fixed penalty notice that had been issued to him on 27th September, 2013.

In responding to a question by Mr King; Mrs Kalaichelvan confirmed that on 27th September, 2013 she was at home, and that she would visit the premises once a week as her husband managed the premises. She stated that following the sale, she had spoken to Mr Selvaraj and told him “not to do it again” and discussed the need for identification, and would now visit the premises twice a week.

At this juncture, Mr King requested Mrs Kalaichelvan to provide full names of the staff members at the premises, however Mrs Kalaichelvan was unable to do so. Mr King stated that as the Premises Licence Holder, Mrs Kalaichelvan had responsibility and should have undertaken the appropriate steps to put additional systems in place following the sale of alcohol to a child.

It was further noted that Mrs Kalaichelvan wished to replace the Designated Premises Supervisor in view of her relocating from Dudley.

Following the submission of two refusals registers; Mr King noted that the last entry registered was 1st December, 2013, and asked whether there had been any attempts from underaged persons during December, 2013. In responding, Mr Selvaraj stated that the only incident when a child attempted an underage sale was on 12th January, 2014. PC Baldwin confirmed that there was an incident on 12th January, 2014, however this had not been entered in the refusals register, and that when officers requested to view the CCTV, staff were unable to download the footage as the Premises Licence Holder was in London.

It was noted that the CCTV had been upgraded and staff members had not been trained, and a new system would be implemented in the till registers that prompted staff for identification once an age restricted product had been scanned.

In summing up, Mr King, on behalf of Trading Standards, stated that the review had been brought to the Sub-Committee due to the concerns that the premises had not met the licensing objectives, and that he remained deeply concerned and not assured in the management of the premises.

In summing up, Mr Panchal, on behalf of Mrs Kalaichelvan, stated that efforts were being made at the premises and there that had been attempted purchases by children that had been refused.

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 Councillor Cowell outlined the decision.

RESOLVED

That, following careful consideration of the information contained in the report submitted, and as reported at the meeting, the premises licence issued to High Street Extras (Premier), 79 High Street, Dudley be suspended for a period of two months.

The following conditions will be 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 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 Licence 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 the age of 18, shall be refused service.

Mrs Kalaichelvan was informed of her right to appeal the decision of the Sub-Committee.

REASONS FOR DECISION

This is a premises review, brought by Trading Standards, in relation to High Street Extras, and as a result of a failed test purchase on 27th September, 2013. A 330ml bottle of Guinness was sold to a 15 year old test purchaser by the manager of the premises, Perajhath Selvaraj. He was issued with a fixed penalty notice. He attended the Sub-Committee and evidence was given that at the time of the sale, he was on the telephone and for this, an apology was received and an acknowledgement that this was not appropriate behaviour.

The Premises Licence Holder, Mrs Usha Kalaichelvan attended the Sub-Committee along with the Designated Premises Supervisor, Mr V Kalaichelvan. The review was adjourned on 10th December, 2013 to enable Mrs Usha Kalaichelvan to attend the Sub-Committee.

The premises had received test purchases on 16th July, 2011 and 26th August, 2011 and sales had been refused. A tobacco test purchase had been made on 9th April, 2013 and a purchase refused.

As at the date of the test purchase, a challenge 21 (not 25) policy was in place in the premises but officers could not locate a till refusals register. The Sub-Committee today was shown a refusals register from September, 2013 which contained a number of handwritten entries, including notes of refusals of sales. However there are no entries since 1st December, 2013. There was also a refusals register pre dating the sale which, for some reason could not be found on 27th September, 2013. This was despite the fact that the Sub-Committee heard evidence that the store manager had called the police on Sunday 12th January, 2014, after a number of children had attempted an underage sale. This has not been recorded on the register.

The evidence given by Mrs Kalaichelvan gave the Sub-Committee great cause for concern, in the light of her responsibility as premises licence holder. She altered her evidence about the number of times she visited the premises from once to twice a week and was not able to give the full names of the four staff employed in the shop. The Sub-Committee was also not convinced from the evidence of Mrs Kalaichelvan that she understood and had delivered appropriate training on the sale of underage products since 27th September, 2013.

The Sub-Committee notes that the Designated Premises Supervisor is to be changed in the near future, and the proposed Designated Premises Supervisor is undergoing training. In the light of the very poor management of these premises, the Sub-Committee takes the step of suspending the premises licence for two months to enable the new Designated Premises Supervisor to be trained and appointed and for her to ensure that all staff selling alcohol have received appropriate training including on the use of CCTV.

The Sub-Committee does however impose the 9 conditions put forward by Trading Standards upon the premises licence. These have been accepted as appropriate by the Premises Licence Holder.

A report of the Director of Corporate Resources was submitted to consider an application for the grant of a House to House Collections Licence in respect of Recycling and Management Services Ltd on behalf of the charities known as the Royal Orthopaedic Hospital Bone Tumour Services and Be Child Cancer Aware.

It was noted that the applicant was not in attendance and notification of the non-attendance had not been received.

RESOLVED

That the grant of a House to House Collections Licence in respect of Recycling and Management Services Ltd be refused.

REASONS FOR DECISION

The applicant did not attend today. The applicant also did not attend on 3rd December, 2013. The Sub-Committee proceeded to determine the application. It was not able to gain the information it required to satisfy itself that the application should be granted. It therefore refused the application.

The meeting ended at 1.25 pm

CHAIR

Licensing Sub-Committee 2 – 25th March 2014

Report of the Director of Corporate Resources

Application for the Grant of a Street Collection Permit

More Mascots Please CIC

Purpose of Report

1. To consider the application made by Miss Ceri Davies of More Mascots Please CIC, for the grant of a Street Collection Permit to collect in Dudley Town Centre.

Background

2. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all street collection permit applicants to submit income and expenditure accounts for the previous financial year.
3. In recent years applications for Street Collections have been received from independent commercial companies undertaking collections on behalf of specific charities. Therefore, in November 2009, the Council introduced a further policy that all applicants for Street Collection permits be required to submit with the application, income and expenditure accounts for the previous financial year of the charity for which the collection is being made and also for the company or organisation making the collection. This is to ensure that a substantial amount of the monies collected are used for charitable purposes.
4. Miss Davies first made application for the grant of a street collection permit on 1st August 2013 for various dates in September and October 2013. Miss Davies did not produce the required accounts, as specified by Council Policy. However, Miss Davies did produce a letter, which stated that she did not have audited accounts available. This application could not be processed due to insufficient accounts being received.
5. A further application was received from Miss Davies on 14th November 2013, for various dates and locations in December 2013, submitted with this application was a bank account statement. Again the bank statement did not conform with Council policy and the application could not be processed.
6. Miss Davies was informed on the 3rd December that the Licensing Office had referred the matter to the Assistant Director who instructed that the matter be put

before the Licensing and Safety Sub-Committee, Miss Davies was also informed that it was not possible for the Committee to determine the application prior to the dates requested and Miss Davies was therefore requested to submit further dates.

7. A further application was received from Miss Davies on the 21st January 2014 requesting dates in Dudley and Stourbridge for the 8th February and 18th February, Miss Davies submitted hand written accounts with this application, a copy of that application together with hand written accounts has been circulated to Committee Members and interested parties. Miss Davies was advised on the 22nd January 2014, that due to time restrictions it would not be possible to put her application before the Committee prior to the 8th February 2014.
8. An email was received from Miss Davies on 10 February 2014 requesting revised dates in April during the Easter holiday for Dudley Market Place. A copy of that email has also been circulated to Committee Members and interested parties.
9. Copies of the application has been circulated to the West Midlands Police and the Directorate of the Urban Environment (Highways). These agencies raised no objections to the application.
10. This application falls within the Council's recent responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

11. There are no financial implications.

Law

12. Street collection permits are governed by the Police, Factories etc (Miscellaneous Provisions) Act 1916.
13. Under this Act the Council have made regulations for street collections.
14. The Council has unfettered discretion to the granting of street collection permits and there are no statutory rights of appeal against the refusal of a street collection permit.

Equality Impact

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

Recommendation

17. That the Committee consider the application for the grant of a street collection permit in respect of More Mascots Please.

A handwritten signature in black ink, appearing to be 'P. Z.' with a flourish.

.....
DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs L Rouse, 5377
Telephone: 01384 815377
Email: liz.rouse@dudley.gov.uk

List of Background Papers

Licensing Sub-Committee – 2 - 25th March 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 the premises licence in respect of Supersave, 79 Russells Hall Road, Dudley, West Midlands, DY1 2JW.

Background

2. Supersave, 79 Russells Hall Road, Dudley, was first granted a premises licence on the 20th September 2005 the premises was at that time known as Middlepark Food & Wine, that licence was subsequently transferred on the 3rd July 2006.
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 24th July 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 Regulation S1, 2004, No 42, Section 38.
6. On the 1st August 2013, the West Midlands Police made representations.
7. This matter was considered by the Licensing Sub-Committee 1 on the 10th September 2013, the Committee resolved that the premises licence be suspended for a period of four weeks and that the Designated Premises Supervisor be removed.
8. The Committee further resolved that the following conditions be attached to the premises licence:-

1. All alcohol purchased for sale on the premises must only be purchased from a recognised, reputable and traceable wholesaler.
2. All alcohol purchased for sale on the premises must be covered by a receipt, the receipt will be on headed notepaper bearing the name, address and contact number of the supplier together with their VAT and company registration number where appropriate. These receipts are to be kept in a file for a minimum of 2 years and must be made available for inspection, on demand, by an officer of a responsible authority.
9. That licence was subsequently transferred into the name of Mr Kamran Khan on the 19th September 2013.
10. On the 31st January 2014, a further application for the review of the premises licence was received from the Trading Regulation and Enforcement Manager. A copy of that application has been circulated to the Committee Members and interested parties in accordance with the Licensing Act 2003.
11. The Council has advertised the application for the review of the premises licence in accordance with the Licensing Regulation S1. 2004 No 42 Section 38. A copy of that notice is attached to this report as Appendix 1.
12. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
13. On the 10th February 2014 the West Midlands Police made representations. A copy of that report has been circulated to Committee Members, Interested Parties and the Premises Licence Holder.
14. On the 27th February 2014 the Director of Public Health made representations. A copy of that report has been circulated to Committee members, interested parties and the premises licence holder.
15. On the 14th February 2014, the premises licence was again transferred into the name of Mr Naseer Hussain who is now the current premises licence holder.
16. The Trading Standards Department have been contacted and confirmed that they still wish to proceed with the application for the review of the premises licence.
17. 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

18. There are no financial implications.

Law

19. 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
20. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
21. 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.
22. 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.
23. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
24. 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,
25. 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).

26. 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.
27. 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.
28. 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.
29. 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
30. Pursuant to schedule 5 part 1, section 8(2)
31. 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

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

Recommendation

- 35. That the Sub-Committee determine the review of the premises licence in respect of Supersave, 79 Russells Hall Road, Dudley, West Midlands, DY1 2JW.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

DUDLEY METROPOLITAN BOROUGH COUNCIL

www.dudley.gov.ukREVIEW OF PREMISES LICENCE
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to Supersave, 79
Russells Hall Road, Dudley, DY1 2JW

Interested parties and relevant authorities may make
representations in writing to the Licensing Office, Law and
Governance, 5 Ednam Road, Dudley, West Midlands, DY1 1HL
between 1st February 2014 and 28th February 2014.

The Review of Licence has been requested by a relevant authority
on the grounds of

- Prevention of crime and disorder
- Protection of children from harm

The details of the grounds for review may be inspected at the
Licensing Offices (address as above) between the hours of 9.00
am and 4.30pm (Monday to Friday except Public Holidays).

It is an offence knowingly or recklessly to make a false statement
in connection with an application and the maximum fine for which a
person is liable on summary conviction for the offence is £5,000.



P J Tart
Director of Corporate Resources