

Licensing Sub-Committee 2 - 17th September, 2013

Report of the Director of Corporate Resources

Review of a Premises Licence

Purpose of Report

1. To consider the application for the review of a premises licence in respect of Super Stop, 135 Priory Road, Dudley, West Midlands.

Background

2. On the 18th December 2008, an application was received from Kenyon Son & Craddock Solicitors in respect of the premises known as 135 Priory Road, Dudley, West Midlands.
3. The application had the following documents enclosed:-
 - Plan of the premises
 - Correct fee of £100.00
 - DPS Consent form
4. The application for a premises licence was as follows:-

To allow the sale of alcohol

Monday – Sunday 07.00 - 23.00

Copies of the application form and supporting documentation were served on the relevant authorities.
5. Following receipt of the application on the 18th December 2008, the premises licence was granted on the 14th January 2009, this being the closing date for objections.
6. The Licensing office contacted the Applicant's Solicitors as a copy of the newspaper advertisement had not been received and therefore the licence could not be issued.

7. On the 27th January 2009, a petition was received from local residents. On receipt of the petition the Applicant's Solicitor was again contacted by the Licensing office, as it was imperative that the Licensing office had sight of the advert, as that was proof of the closing date for objections.
8. The Applicant's Solicitors informed the Licensing office that they had mistakenly put the closing date on the newspaper advertisement as the 28th January 2009 therefore the premises licence was cancelled and the matter referred to the sub-committee as objections had been received to the application by local residents.
9. A copy of the petition received from local residents concerning public nuisance was circulated to the Committee Members, interested parties and the Applicant in accordance with the Licensing Act 2003.
10. This matter was considered by the Licensing Sub-Committee on the 17th February 2009. The Committee resolved that the application be granted as follows:-

Sale of Alcohol

Monday – Sunday 07.00 – 23.00

All conditions set out as in the operating schedule only

11. That licence was subsequently transferred on the 25th January 2011 into the name of Mr Tilak Raj.
12. On the 13th September 2012, the Trading Regulation & Enforcement Manager made application for the review of the premises licence in respect of 135 Priory Road, Dudley, West Midlands. A copy of that application was circulated to the Committee Members and interested parties.
13. The Council advertised the application for review of the premises licence in accordance with Licensing Regulation S1, 2004, No 42, Section 38.
14. Confirmation that the application had been served on the relevant authorities and the premises licence holder was received.
15. This matter was considered by the Licensing & Safety Sub-Committee on the 30th October 2012. The Committee resolved that subject to the following conditions being applied to the premises licence that no further action be taken in relation to the review of the premises licence.

A Challenge 25 policy will be operated at the premises whereby any individual attempting to purchase alcohol who appears to be under 25 years of age will be asked to provide valid identification to prove they are 18 years or older. All staff must be made aware of this policy.

Valid proof of identification only to 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.

Publicity materials notifying customers of the operation of the "Challenge 25" scheme shall be displayed at the premises, including a "Challenge 25" sign of at least A4 size at each point of sale.

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.

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 check 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 the Trading Standards Department and/or the Police.

CCTV to be in place at the premises 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 within 24 hours.

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 the Trading Standards Department and/or Police. All staff are to be trained to work the CCTV and are able to download when required to do so and the cameras are to be operational during working hours.

No supply of alcohol may be made under the premises licence at a time when the Designated Premises Supervisor does not hold the Level 2 Award for Designated Premises Supervisors. Proof of qualification shall be provided to the Police and/or an Officer of the Trading Standards Department upon request.

All persons engaged to sell alcohol will have completed a training programme which included a written test to verify the competency of that person prior to them being authorised to sell alcohol.

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.

A file shall be maintained at the premises for each person authorised to sell alcohol. This file shall contain all training records for each person along with copies of monthly reviews as stated in point 10. This file shall be available for inspection to an Officer of the Trading Standards Department and/or Police upon request.

16. On the 3rd July 2013, an application for a further review of the premises licence was received from the Trading Regulation and Enforcement Manager. A copy of that application has been circulated to Committee Members and interested parties in accordance with the Licensing Act 2003.

17. The Council has advertised the application for 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.
18. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
19. On the 23rd July, 2013 the West Midlands Police made representations. A copy of that report has been circulated to Committee members, interested parties, the applicant and premises licence holder.
20. This matter was considered by Sub-Committee 4 on 27th August, 2013, the Committee resolved at the request of the premises licence holder that the matter be deferred to a hearing in September.
21. 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

22. There are no financial implications.

Law

23. 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
24. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
 25. 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.
 26. 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.

- 27. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- 28. 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,
- 29. 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).
- 30. 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.
- 31. 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.
- 32. 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.

33. 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

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

Recommendation

- 37. That the Sub-Committee determine the review of the premises licence in respect of Super Stop, 135 Priory Road, Dudley, West Midlands.



.....
DIRECTOR OF CORPORATE RESOURCES

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

List of Background Papers