

# **LICENSING SUB-COMMITTEE 4**

**TUESDAY 10<sup>th</sup> DECEMBER, 2013**

**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**

**KAREN TAYLOR  
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Your ref:

Our ref:  
KT

Please ask for:  
Karen Taylor

Telephone No.  
01384 818116

3<sup>rd</sup> December, 2013

**REVISED AGENDA**


Dear Member

**Meeting of Licensing Sub-Committee 4 – Tuesday 10<sup>th</sup> December, 2013**

You are requested to attend a meeting of Licensing Sub-Committee 4 to be held on Tuesday 10<sup>th</sup> December, 2013 at 10.00 am in the Council Chamber at the Council House, Priory Road, Dudley, West Midlands, DY1 1HF 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](http://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 27<sup>th</sup> August, 2013 (copy attached).

5. APPLICATION FOR REVIEW OF PREMISES LICENCE – HIGH STREET EXTRAS (PREMIER), 79 HIGH STREET, DUDLEY (PAGES 1 – 5)

To consider a report of the Director of Corporate Resources.

6. APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING – G F MEATS LTD – HALESOWEN TOWN CENTRE (PAGES 6 - 7)

To consider a report of the Director of Corporate Resources.

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

**Distribution**

Councillors:     Roberts (Chair)                     Perks                     Woodall

## **LICENSING SUB-COMMITTEE 4**

Tuesday 27<sup>th</sup> August, 2013 at 10.15 am  
in Committee Room 2, The Council House, Dudley

### **PRESENT:-**

Councillor Roberts (Chair)  
Councillors Perks and Woodall

### **Officers: -**

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

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### **8            DECLARATIONS OF INTEREST**

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

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### **9            MINUTES**

#### **RESOLVED**

That the minutes of the meeting of the Sub-Committee held on 18<sup>th</sup> June, 2013, be approved as a correct record and signed.

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### **10          APPLICATION FOR REVIEW OF PREMISES LICENCE – NICK'S CONVENIENCE STORE (ALSO KNOWN AS COSTCUTTER), 71 BATH STREET, SEDGLEY**

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Nick's Convenience Store (also known as Costcutter), 71 Bath Street, Sedgley.

Mr N Gill, Premises Licence Holder and Designated Premises Supervisor was in attendance at the meeting together with a supporter, Mrs P Gill.

Also in attendance were Mr C King, Principal Trading Standards Officer, the Directorate of the Urban Environment, Ms D McNulty, Office of Public Health; and PC A Baldwin and a colleague from West Midlands Police.

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

Ms McNulty 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 recommendation to revoke or suspend the premises licence.

PC Baldwin then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had carried out checks on the police systems and that there was no recent intelligence in relation to underage sales at the premises or any issues such as anti-social behaviour or incidents in the area.

Mr King then presented the representations of Trading Standards and in doing so highlighted that the grounds for 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 with respect to the sale of alcohol to children.

Mr King informed the Sub-Committee that on 14<sup>th</sup> June, 2013, a fifteen year old 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.

On 21<sup>st</sup> March, 2013, an officer from Trading Standards carried out a visit to the premises and spoke to Mr Gill. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Gill was 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 all staff were aware of their obligations under the Licensing Act 2003, Mr Gill also signed an ARP form 0841 to acknowledge receipt of the information pack during the visit.

Mr King further stated that on 14<sup>th</sup> June, 2013, Trading Standards together with West Midlands Police, carried out a test purchasing exercise which was part of an ongoing series of test purchase exercises to test compliance once a premises had been advised. On that occasion, a fifteen year old female test purchaser volunteer purchased four cans of Holsten Pils lager with 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 Mr Gill.

On inspection of the premises, it was noted that there was one age restricted products poster on display stating "No I.D, no sale", and a refusals register under the counter, which had recent entries in it. Following caution, Mr Gill stated that "he had just made a mistake", and was 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.

Mr Gill then presented his case and in doing so stated that on 14<sup>th</sup> June, 2013, he was under pressure with his business and that he had an argument with his mother on the same day, therefore losing his concentration resulting in a sale being made.

Mr Gill further stated that following the sale, he felt very guilty as he felt that he had failed a number of people including family, customers, and the Council, and that there had been no problems or issues since he started his business.

Following comments made by Mr Gill, in particular that he had passed previous test purchase exercises, Mr King stated that there was no information or acknowledgement to indicate that test purchase exercises had been undertaken at the premises.

In responding to a question by the Legal Advisor, Mr Gill stated that he felt under pressure due to competition with other businesses, particularly since the opening of a Tesco Express store in close proximity of the premises.

In responding to a question by the Legal Advisor, Mr Gill confirmed that he was in agreement with the conditions suggested by Trading Standards, however he disputed conditions relating to Challenge 25, as he currently operated a Challenge 18 policy and he considered that by operating under Challenge 25 it would affect his business.

Following comments made in respect of the Challenge 25 policy, Mr King stated that although the preferred policy was Challenge 25, this was not a condition of licence for any premises.

Mr Gill further stated that he had implemented a number of items listed in the conditions, such as a monthly training programme for employees, a refusals register, a form for employees to sign to state that they were able to sell alcohol, and an alert installed on registers to highlight the need for identification when a tobacco or alcohol product had been scanned.

In responding to a question by the Chair, Mr Gill confirmed that there were four people employed at the premises, who were family members.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

At this juncture, Mr Gill informed the Sub-Committee that he was in agreement with all conditions suggested by Trading Standards, including those in relation to Challenge 25.

The Sub-Committee having made their decision invited the parties to return and the Chair then outlined the decision.

## RESOLVED

That, subject to the following conditions being applied to the premises licence, no further action to be taken in relation to the review of the premises licence in respect of Nick's Convenience Store (also known as Costcutter), 71 Bath Street, Sedgley: -

### Conditions



- (1) A written Proof of Age Policy 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) 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 prove they are 18 years or older. All staff must be made aware of and trained in this policy.
- (3) 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.
- (4) 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.
- (5) 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 on demand.
- (6) 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.
- (7) 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.

- (8) All persons engaged to sell alcohol must complete a training programme, which includes a written test, to verify their competency, prior to them being authorised to sell alcohol.
- (9) 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.
- (10) 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 9. This file shall be made available for inspection by any officer from a responsible authority upon request.

#### REASONS FOR DECISION

This is an application for a review of the premises licence as a result of a failed test purchase on 14<sup>th</sup> June, 2013. Mr Gill, who is the Premises Licence Holder and Designated Premises Supervisor made the sale to a fifteen year old without asking her any questions. In his evidence Mr Gill stated that he did not even look at the customer. He stated that he was under pressure with his business and had had an argument with his mother that day. Mr Gill expressed great remorse for the sale.

Mr Gill stated that he accepted the ten proposed conditions to be attached to his licence. He had some questions about the Challenge 25 Policy but did then accept this.

The Sub-Committee has decided that imposing the ten proposed conditions to the premises licence is proportionate to, and addresses the concerns raised by this underage sale of alcohol. The Sub-Committee notes and accepts the concerns expressed by Public Health.

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Super Stop, 135 Priory Road, Dudley.

Mr T Raj, Premises Licence Holder was in attendance at the meeting.

Also in attendance were Mr C King, Principal Trading Standards Officer, the Directorate of the Urban Environment, and PC A Baldwin and a colleague from West Midlands Police.

It was noted that a request had been received by Mr Raj's legal representative, Mr Campbell, to adjourn the meeting as he was currently on annual leave. All parties agreed to the request made.

RESOLVED

That, consideration of the application made for the review of the premises licence in respect of Super Stop, 135 Priory Road, dudley be deferred to a future meeting of a Sub-Committee.

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APPLICATION FOR HOUSE TO HOUSE COLLECTIONS  
LICENCE – FORCES SUPPORT (RECYCLING SOLUTIONS  
(NORTH WEST) LIMITED)

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 Solutions North West Limited on behalf of the charity known as Forces Support.

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 Solutions North West Limited be deferred to a future meeting of a Sub-Committee when the applicant shall attend the meeting and prior to that meeting supply the information contained in Section 2 (f) of the House to House Collections Act, 1939, and that should the applicant fail to attend the Sub-Committee the application be heard in absence.

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The meeting ended at 11.50 am

CHAIR

**Licensing Sub-Committee 4 - 10<sup>th</sup> December, 2013**

**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 High Street Extras (Premier), 79 High Street, Dudley, West Midlands, DY1 1PY

**Background**

2. The High Street Extras (Premier), was first issued with a premises licence on the 26<sup>th</sup> February, 2008, that licence was transferred on the 30<sup>th</sup> March, 2010.
3. The current premises licence is issued for the following:-  
  
Sale of Alcohol      Monday to Sunday inc      06.00 – 23.00
4. On the 18<sup>th</sup> October, 2013, an 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 Committee Members and interested parties in accordance with the Licensing Act 2003.
5. 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.
6. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
7. On the 24<sup>th</sup> October, 2013, the Director of Public Health made representations. A copy of that report has been circulated to Committee Members interested parties, and premises licence holder.
8. On the 8<sup>th</sup> November, 2013, the West Midlands Police made representations. A copy of that report has been circulated to Committee members, interested parties and the premises licence holder.
9. The current premises licence holder is Mrs. U. Kalaichelvan.

10. 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**

11. There are no financial implications.

### **Law**

12. 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
13. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
14. 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.
15. 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.
16. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).

17. 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,
18. 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).
19. 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.
20. 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.
21. 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.
22. 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
23. Pursuant to schedule 5 part 1, section 8(2)
24. 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**

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

### **Recommendation**

- 28. That the Sub-Committee determine the review of the premises licence in respect of The High Street Extras (Premier), 79 High Street, Dudley, West Midlands.



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DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs. L. Rouse, 5377  
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### **List of Background Papers**

DUDLEY METROPOLITAN BOROUGH COUNCIL

[www.dudley.gov.uk](http://www.dudley.gov.uk)

REVIEW OF PREMISES LICENCE  
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to High Street  
Extras /Premier 79 High Street, Dudley, DY1 1PY

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 19<sup>th</sup> October 2013 and 15<sup>th</sup> November 2013.

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



**Licensing Sub-Committee 4 – 10<sup>th</sup> December, 2013**

**Report of the Director of Corporate Resources**

**Application for Consent to Engage in Street Trading**

**G F Meats Ltd. - Halesowen Town Centre**

**Purpose of Report**

1. To consider the application made by Mr. Martin Geraghty for the grant of consent to engage in street trading at a site in Halesowen Town Centre.

**Background**

2. On the 14<sup>th</sup> October, 2013, Mr. Martin Geraghty made application for the grant of a Street Trader's Consent to sell meat between the hours of 8.00 a.m. and 4.00 p.m. Thursday to Saturday inclusive in Halesowen Town Centre.
3. The application and plan of the proposed sites has been circulated to Committee Members and interested parties.
4. The Cornbow Shopping Centre and the Halesowen Chamber of Trade made objections to the application, a copy of that report has been circulated to Committee Members and the applicant.
5. A further objection was also received from Mark Hewitt (Proprietor) of Les Hewitt Fine Fresh Foods, situated in the Cornbow Centre, Halesowen, a copy of that objection has also been circulated to Committee Members and the applicant.
6. Environmental Health (Food & Occupational Safety) were unable to provide any comments on the application as they are unable to locate any record of the business.
7. The Highways Department stated that they have no issues with regard to the application other than the usual concerns regarding minimising obstructions within the Town Centre.
8. 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**

9. There are no financial implications.

## **Law**

10. 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.
11. 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.
12. 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.
13. Where the consent allows the holder to trade from a cart, barrow, or other vehicle, then the consent must specify the location from which the trade/may trade and the times between which or periods for which he may trade.
14. There is no right of appeal against the Council's decision to vary a condition upon which a consent is issued, or refusal to grant or renew a street trader's consent.

## **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 developing these proposals.

## **Recommendation**

17. That the Committee consider Mr. Geraghty's application for the grant of a street trading consent in Halesowen Town Centre.



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DIRECTOR OF CORPORATE RESOURCES

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## **List of Background Papers**