

Meeting of the Licensing Sub-Committee 1

Tuesday 26th July, 2022 at 10.00am

In the Council Chamber at the Council House, Priory Road, Dudley

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 meetings held on 28th June, 2022 as a correct record.

The following applications are to be considered under the provisions of the Licensing Act 2003:-

5. Meadowlark Express, 115-116 Dibdale Road, Milking Bank (Pages 1 - 12)
6. Notice of Temporary Event – 876 Lounge, 70 High Street, Dudley (Pages 13 - 16)
7. Notice of Temporary Event – Conyers Yard, Station House, Station Yard, Stourbridge (Pages 17 - 19)
8. 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: 18th July, 2022

Distribution:

Members of the Licensing Sub-Committee 1

Councillor J Clinton (Chair)

Councillors J Cowell and P Miller

Please note the following concerning meetings at Dudley Council House:

In view of ongoing Health and Safety requirements in the work place, you are asked to note the following information when attending meetings:-

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- Sanitise your hands when arriving and leaving the building and wash your hands regularly.
- Hand sanitiser and antibacterial wipes are available at various locations.
- All persons entering or working in the Council House are encouraged to wear face masks in communal areas and when moving around the building. Surgical masks are available at reception.
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- 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.

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- There is no smoking on the Council House 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.

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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).

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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 the Licensing Sub-Committee 1
Tuesday, 28th June 2022 at 10.25 am
In the Council Chamber, Council House, Dudley**

Present:

Councillor J Clinton (Chair)
Councillors J Cowell and P Miller

Officers: -

N Slym – Assistant Team Manager - Licensing and Waste Enforcement (Directorate of Public Realm), R Clark – Principal Solicitor and H Mills - Democratic Services Officer (Directorate of Finance and Legal).

1. **Declarations of Interest**

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

2. **Minutes**

Resolved

That the minutes of the meetings held on 25th January, 2022, be approved as a correct record and signed.

3. **Application for Review of a Premises Licence – Meadowlark Express, 115-116 Dibdale Road, Milking Bank**

A report of the Interim Director of Public Realm was submitted for the review of the premises licence in respect of Meadowlark Express (formerly Bargain Booze/Costcutter) 115-116 Dibdale Road, Milking Bank, Dudley.

The following persons were in attendance at the meeting:-

K Turley – West Midlands Police
PC S Berry – West Midlands Police (Observing)
K Mullings – Enforcement Officer (Licensing and Waste Enforcement)
W Hillary-Patten – Senior Health Improvement Practitioner (Public Health)
L Reuben - Public Protection Manager (Observing)
R Jones – Enforcement Officer (Trading Standards)

Following introductions, the Assistant Team Manager - Licensing and Waste Enforcement presented the report on behalf of the Council, advising that the premises licence was transferred to K Balendran on 5th April, 2022, although it was effective from 16th March, 2022. An application for review of the premises licence was received from Environmental Health and Trading Standards on 10th May, 2022, on the grounds of breaches to the licensing objectives in relation to the prevention of crime and disorder and the protection of children from harm.

It was confirmed that K Balendran, Premises Licence Holder (PLH), was not in attendance at the meeting. It was reported that several attempts had been made to contact him by telephone and voicemail messages had been left for him to make contact. It was noted that a response from K Balendran had been received via text message confirming that he would 'call back later'.

The Assistant Team Manager - Licensing and Waste Enforcement confirmed that confirmation of the meeting date had been sent by email to K Balendran on 10th June, 2022 and a subsequent email was sent on 20th June, 2022 attaching the relevant paperwork. On neither occasion had an undeliverable message been received.

Having consulted with the Relevant Authorities present at the meeting and in light of the information presented, the Sub-Committee were of the view that the Premises Licence Holder had had sufficient opportunity to attend the meeting and agreed to proceed with the hearing, in the absence of the Premises Licence Holder, K Balendran.

R Jones then presented the facts of the case relating to breaches in relation to the prevention of crime and disorder and the protection of children from harm, under the Licensing Act 2003, that had resulted in the application being made for the review of the premises licence.

It was reported that K Balendran was the Premises Licence Holder and the Designated Premises Supervisor (DPS) at the premises.

It was noted that on 31st March, 2022, a 14-year-old was sold alcohol, namely a four pack of Bud Light lager with 3.5% ABV from the premises, contrary to Section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives.



LSBC1/2

The Sub-Committee were informed of the circumstances surrounding the underage sale, in particular that the seller had not requested identification and did not respond to Officers following notification that they had sold alcohol to an underage person. It was reported that K Balendran had not been present at the premises at the time of the underage sale, however attended approximately 10 minutes later, at which K Balendran confirmed that the premises licence was in the process of being transferred to himself. K Balendran was unable to produce a Refusals Register or any training records for staff.

The Sub-Committee were also informed that whilst dealing with the underage sale, 107 disposable vape devices were seized under the Consumer Rights Act 2015, due to them being in excess of the legal limit and in breach of the Tobacco and Related Products Regulations 2016. Trading Standards therefore recommended that the Premises Licence be suspended for a period of up to three months to enable the Premises Licence Holder opportunity to provide evidence of compliance with the conditions attached to the premises licence.

K Turley then presented the representations on behalf of West Midlands Police and in doing so expressed their concern with regard to the overall control and day to day management of the premises and fully supported the review of the premises licence following the sale of alcohol to an underage person and the seizure of illegal disposable vaping devices.

W Hillary-Patten reported on the impact and risks to an adolescent's development as a consequence of alcohol, nicotine and nicotine inhaling production consumption. The act of underage sale to a minor and the seizure of a high quantity of disposable vape devices was considered a serious breach of the Licensing Act 2003 and Public Health fully supported the findings and recommendation proposed by Trading Standards.

K Mullings presented the representations of Dudley Licensing Authority, and in doing so confirmed that this was the second review called for in respect of this property, the first being under the previous management. It was reported that compliance visits were undertaken on 10th May, 2022, 17th May, 2022 and 20th May, 2022, on all occasions K Balendran was in attendance.

It was reported that during the first compliance visit, the conditions attached to the premises licence were discussed and it was identified that conditions 1 to 3 were not being complied with. K Balendran was unaware that the premises operated a Challenge 25 policy, even though posters were displayed on the premises and was unable to provide training records for any staff members employed at the premises. Following the visit, an advisory letter was sent to the Premises Licence Holder, making him aware of his responsibilities and the importance of complying with the conditions attached to his licence.

The Sub-Committee were informed that further compliance visits were undertaken and subsequent follow up advice letters sent. K Balendran confirmed that the employee who had committed the offence/sale, no longer worked at the premises, however K Balendran continued to fail to comply with the conditions attached to the premises licence. The Licensing Authority therefore fully supported Trading Standards and the recommendation that had been proposed.

In response to a question raised by Councillor J Cowell, all relevant authorities present at the meeting unanimously agreed that they were of the view, that with support, the Premises Licence Holder would be able to adhere with the recommendation.

Arising from questions raised by R Clark, Principal Solicitor, it was confirmed that whilst the Premises Licence Holder's registered address was not within close proximity to the premises, he had been present at all pre-arranged visits and that although a number of wholesalers within the region had been identified as selling illegal vapes, all sellers had received correspondence from the Local Authority with regard to the legality of nicotine inhaling productions and the Tobacco Regulation Law, which had been effective from 2016.

R Clark provided a legal summary in relation to the case and the steps available to the Sub-Committee, following which all parties withdrew from the meeting to enable the Sub-Committee to determine the review.

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

Resolved

- (1.) That following careful consideration of the information contained in the report submitted and presented at the meeting, the premises licence in respect of the premises known as Meadowlark Express, 115-116 Dibdale Road, Milking Bank, be suspended for a period of three months.
- (2.) That the Designated Premises Supervisor be removed as he had not fulfilled his duties in order to prevent breaches of the crime and disorder and the protection of young people from harm licensing objectives.

Reasons for the Decision

The Sub-Committee, having considered all of the evidence available to them at the meeting, were of the view that the Designated Premises Supervisor (DPS) had not fulfilled his duties in order to prevent breaches of the crime and disorder and the protection of young people from harm licensing objectives. It therefore took the step to remove the DPS for the premises.



LSBC1/4

The Sub-Committee considered the application to revoke the premises licence, however concluded that it would suspend the premises licence for a period of three months to enable the new Designated Premises Supervisor to read and understand the conditions on the premises licence, and to put procedures in place to ensure that they were complied with, and the licencing objectives upheld. Specifically, staff must be trained in the sale of alcohol and the challenge 25 policy, staff records and training records must be created and maintained by regular evidenced reviews and a refusals register properly maintained at all times.

3. **Application for Review of a Premises Licence – News Express (the Wine Cellar), 15-17 Abbey Road, Gornal, Dudley**

A report of the Interim Director of Public Realm was submitted to consider an application for the review of a premises licence in respect of News Express (The Wine Cellar), 15-17 Abbey Road, Gornal Dudley.

The following persons were in attendance at the meeting:-

F Humphreys – Barrister, Kings Chambers, together with a colleague observing the proceedings

A Singh – Premises Licence Holder

K Turley – West Midlands Police

PC S Berry – West Midlands Police

W Hillary-Patten – Senior Health Improvement Practitioner (Public Health)

L Reuben - Public Protection Manager

R Jones – Enforcement Officer (Trading Standards)

Following introductions, the Assistant Team Manager - Licensing and Waste Enforcement presented the report on behalf of the Council, and in doing so advised that the premises licence had transferred to A Singh on 29th July, 2021, who was also the Designated Premises Supervisor. The current operating times at the premises were Monday to Sunday (inclusive), 7am to 11pm. An application for review of the premises licence was received on 5th May, 2022, from Environmental Health and Trading Standards on the grounds of breaches to the licensing objectives in relation to the prevention of crime and disorder and the protection of children from harm.

The Sub-Committee were informed that whilst representations in support of the review had been received from three Ward Councillors, confirmation of their attendance at the meeting had not been received.

R Jones then presented the facts of the case relating to the prevention of crime and disorder and the protection of children from harm under the Licensing Act 2003 and outlined the reasons that had resulted in the application being made for the review of the premises licence.



It was noted that on 31st January, 2022, a 15 year old test purchaser was sold a disposable vaping device, namely a Geek Bar, containing 2% nicotine, from the premises, contrary to The Nicotine Inhaling Products (age of Sale and Proxy Purchasing) Regulations 2015. It was further noted that on 31st March, 2022, a 14 year old test purchaser was sold alcohol, namely 4 cans of Carling with a 4% ABV, contrary to Section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives.

The Sub-Committee were informed of the circumstances surrounding both incidents, in particular that the same sales assistant had been involved in both incidents, and on neither occasion had the sales assistant requested identification or responded to Officers following notification of the offences. It was further reported that immediately following the underage sale on 31st January, 2022, a large quantity of disposable vape devices were seized, which exceeded the legal limit of 2ml and in direct contravention of the Tobacco and Related Products Regulations 2016. The Premises Licence Holder was advised at the time not to sell or stock devices in excess of 2ml capacity, however, on the 2nd March, 2022, further illegal disposable vape devices were seized from the premises.

It was reported that the Premises Licence Holder had not been forthcoming with providing Closed Circuit Television footage for the requested period of 3pm on 30th March, 2022 to 3pm on 1st April, 2022. It was also reported that on 31st March, 2022, following the test purchase, the seller demonstrated that the Electronic Point of Sale (EPOS) system on the shops till was operating correctly and displayed a clear 'Challenge 25' warning.

In light of the two separate underage sales within a period of three months, Trading Standards recommended that the Sub-Committee considered the revocation of the premises Licence.

PC Berry then presented the representations on behalf of West Midlands Police and in doing so confirmed that they fully supported the review of the premises licence as both incidents reported, were in direct contravention of the licensing objectives.

PC Berry further stated that between 23rd November 2021 and 12th January, 2022 several calls had been made to West Midlands Police from a neighbouring store to The Wine Cellar, reporting incidents of anti-social behaviour by local youths. Following further investigation, it was established that youths had congregated outside The Wine Cellar, entering and remaining in the store for a significant period of time. The intelligence of which was then shared with Trading Standards.

W Hillary-Patten, on behalf of Public Health reported on the effects of nicotine and nicotine inhaling products to a minor, as well as the risks to an adolescents development as a consequence of alcohol consumption and the detrimental effect it may have to their learning and achievements. The act of underage sales to minors on two separate occasions was considered a serious breach of the Licensing Act 2003. The premises was an area that experienced an increased level of anti-social behaviour and therefore Public Health fully supported the findings and recommendation proposed by Trading Standards.

Arising from questions raised by F Humphreys, R Jones confirmed that the review had been requested following the two sales of age restricted products to minors, and the aggravated factors and health implications caused as a result of those sales. The store selling illegal vape devices was also seen to demonstrate poor management and that the store was not achieving the licensing objectives.

Following further questions, R Jones confirmed that he had undertaken a number of routine visits to the premises following the two incidents and although had not identified any issues, he had experienced a lack of co-operation from the Premises Licence Holder and the employees at the store.

In referring to the request for CCTV footage which had not been complied with, through F Humphries it was asserted that the initial request had been unlawful and would have been in breach of the General Data Protection Regulation (GDPR). As the revised request was received 30 days after the requested period, the footage had subsequently been deleted and therefore could not be provided.

Following further questions and responses, F Humphries then presented the case on behalf the Premises Licence Holder and in doing so stated that the revocation of the premises licence was not a proportionate decision in the circumstances of the case and that the attachment of conditions, as proposed by the Premises Licence Holder, was an appropriate response to the issues raised.

It was reported that the Premises Licence Holder was experienced in the sale of alcohol and age restricted products and had had no previous issues. The current premises licence had no conditions attached, however the Premises Licence Holder had, on his own accord, installed a Close Circuit Television (CCTV) system at the premises, which included nine cameras and which recorded for a period of 30 days to assist with the management of the premises.

In referring to the two incidents, it was stated that on neither occasion had the Premises Licence Holder been present and the employee involved had been trained on numerous occasions. The till had an EPOS system in place to prompt staff and which created a refusal log. It was reported that as a result of the 1st incident, the premises now operated a challenge 25 policy and training had been provided to all staff. The Premises Licence Holder had taken steps to address the issues and had increased his time spent at the store. It was also confirmed that the employee that had committed the two offences, although continued to work at the store, no longer worked behind the till.

In referring to the concerns made by West Midlands Police in relation to anti-social behaviour, it was stated that there was no evidence to link the anti-social behaviour (ASB) to the Wine Cellar, in fact the premises had experienced its own issues with ASB and shoplifting which had been reported to the authorities.

F Humphreys referred to the seizure of vaping products on 2nd March, 2022, which it was reported were products that had been omitted to be collected from first occasion and there was no evidence to confirm that any of these products had been sold since advised that it was illegal to do so.

All parties were then given the opportunity to ask questions of the Premises Licence Holder's case. It was reiterated that the vaping devices seized on 2nd March were remnants of stock that had been missed from the first confiscation and had been stored underneath the counter by a staff member for the Premises Licence Holder to dispose of following his return from holiday and that the initial request for CCTV footage would have breached GDPR and the Premises Licence Holder had complied with the Law and was entitled to seek legal advice on the matter.

All parties were given the opportunity to sum-up their cases. The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application for review.

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

Resolved

That following careful consideration of the information contained in the report submitted and the information presented at the meeting, the following conditions be applied to the premises licence in respect of the premises known as News Express (The Wine Cellar), 15-17 Abbey Road, Gornal:-

- (1) 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 a GDPR compliant request.
- (2) 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.
- (3) A challenge 25 policy shall be operated at the premises.
- (4) All staff selling age restricted products shall be given training in the promotion of the licencing 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 Council Licensing Officers within 48 hours of a request being made for them.
- (5) 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 a request being made for it.

The meeting ended at 1.45pm

CHAIR

Meeting of the Licensing Sub-Committee 1 – 26th July 2022

Report of the Interim Director of Public Realm

Meadowlark Express, 115-116 Dibdale Road, Milking Bank, Dudley, DY1 2RR

Purpose

1. That the Sub-Committee reconsider the decision made on the 28th June 2022 in respect of the premises known as the Meadowlark Express (formerly Bargain Booze/Costcutter) 115-116 Dibdale Road, Milking Bank, Dudley.

Recommendation

2. That the Sub-Committee reconsider their previous decision made on the 28th June 2022, in light of information received following the hearing.

Background

3. The Meadowlark Express (formerly Bargain Booze/Costcutter) was first issued with a premises licence on the 3rd August 2005, that licence was transferred into the name of Mr K Balendran on the 5th April 2022 but took effect from the 16th March 2022. The premises licence was issued for the following days and times:

Supply of Alcohol/Premises open to the public

Monday to Saturday	08.00 until 23.00
Sunday	10.00 until 22.30
Good Friday	08.00 until 22.30
Christmas Day	12.00 until 15.00
Christmas Day	19.00 until 22.30

4. On the 10th May 2022, 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 was previously 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 were received from West Midlands Police, the Licensing Authority, Safeguarding and Public Health.
7. Copies of all representations have previously been forwarded to the Premises Licence Holder, Committee Members and Interested Parties.
8. These premises have been the subject of a previous review which was considered by the Licensing Sub-Committee 2 on the 12th July, 2016. A copy of the minutes from that hearing are attached to this report as Appendix 1.
9. This matter was considered by the Licensing Sub Committee on the 28th June 2022, where it was resolved that the premises licence be suspended. However, in light of contact and further information from the premises licence holder's legal representative, the Sub-Committee have further resolved that a meeting be held on the 26th July 2022 to reconsider their decision of the 28th June 2022.

Finance

10. There are no financial implications.

Law

11. 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
12. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
13. 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.
14. 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.
15. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
16. 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.

17. 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).
18. 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.
19. 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.
20. 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.
21. 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

22. 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

23. There are no material risk implications.

Equality Impact

24. This report takes into account the Council's policy on equal opportunities.

25. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.

26. There has been no consultation or involvement of children and young people in developing these proposals.

Human Resources/Organisational Development

27. There are no organisational development/transformation implications.

Commercial/Procurement

28. There are no commercial/procurement 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

Appendix 1 - Minutes of meeting 12th July, 2016

Minutes of the Licensing Sub-Committee 2

Tuesday 12th- July, 2016 at 10.00 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor E Taylor (Chair)
Councillors C Bayton and C Elcock

Officers:-

R Clark – Solicitor (Chief Executive Directorate), L Rouse – Licensing Clerk (Place Directorate) and K Buckle, Democratic Services Officer (Chief Executive Directorate).

1. Apology for absence

An apology for absence from the meeting was submitted on behalf of Councillor A Taylor.

2 Appointment of Substitute Member

It was noted that Councillor C Elcock had been appointed as a substitute member for Councillor A Taylor for this meeting of the Committee only.

3 Declarations of Interest

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

4 Minutes

Resolved

That the minutes of the meeting of the Sub-Committee held on 19th April, 2016, be approved as a correct record and signed.

5 **Application for Grant of New Premises Licence – Kents Tuck Inn, 2 The Arcade, Upper Gornal, Dudley.**

A report of the Strategic Director Place was submitted on an application for the grant of a new premises licence in respect of Kents Tuck Inn, 2 The Arcade, Upper Gornal, Dudley.

The following persons attended the meeting in respect of the application:-

Mr B Singh Cheema – Applicant's Spouse.
Councillor D Perks – Objector

Also in attendance:-

Councillor D Birch – Conservative Deputy Leader, Bracknell Forest Council – Observer.

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

It was noted that representations had been received from a Ward Councillor and two local residents.

Arising from further discussions Members expressed concerns that the Applicant was not present and no authority had been received to state that the Applicant's spouse could represent her.

Resolved

The application for the grant of a new premises licence in respect of Kents Tuck Inn be deferred, for the reasons given below.

Reasons for the Decision

This is an application for the grant of a new premises license, specifically to use the premises as an off license, with hours of 11am to 11pm Monday to Saturday and 4pm to 11pm on Sundays. These are the opening hours of the existing shop, which sells fast food (fish and chips).

Mrs. Jasbinder Cheema made the application on 24th May. Her proposal is that Mr. Balvinder Singh Cheema is to become the Designated Premises Supervisor.

Mrs. Cheema did not attend committee today. Her Husband attended, and stated that he was to represent her today. The committee however was not satisfied that the applicant was not present, and

there was no written authority from the applicant for her husband to represent her. The committee therefore deferred the application for the applicant herself to attend.

6 **Application for Review of a Premises Licence – Bargain Booze (AKA Costcutter), Dibdale Road, Milking Bank, Dudley.**

A report of the Strategic Director Place was submitted on an application for a review of the premises licence in respect of Bargain Booze (AKA Costcutter), Dibdale Road, Milking Bank, Dudley.

The following persons attended the meeting in respect of this application:-

Mr A Singh Grewal – Premises Licence Holder
Mr B Kaulwell – Store Manager
Mr G Wintrip – Trading Standards
PC A Baldwin – West Midlands Police
Miss K Turley – West Midlands Police

Also in attendance:-

Councillor D Birch – Conservative Deputy Leader, Bracknell Forest Council – Observer.

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

Mr Wintrip then presented the facts of the case relating to the prevention of crime and disorder and the protection of children from harm under the Licensing Act 2003 which had resulted in the application being made for a review of the premises licence. It was explained that on 29th April, 2016 a test purchase had been carried out at the premises and on that occasion a child test purchaser had been sold scrumpy jacks cider with the seller making no attempt to ask the age of the volunteer, or for identification.

The Premises Licence Holder circulated the Register of Refusals of the Sale of Alcohol to Members for inspection purposes and it was noted that the Register was up to date.

In responding to a question from a Member, Mr A Singh Grewal, the Premises Licence holder responded stating that the member of staff responsible for the sale had been interviewed and formally disciplined and that all staff were fully trained in relation to the implications of selling alcohol to those who were under the statutory age and those who were intoxicated. It was also noted that upon a three monthly basis flyers were forwarded to all members of staff reminding them of those responsibilities.

In summing up Mr A Singh Grewal advised that the sale of alcohol referred to above had not been unacceptable and he would continue to do everything in his power to adhere to practices, advising staff of the implications of selling alcohol to those who under the statutory age together the financial implications on those involved including possible job losses.

The parties then 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 Chair then outlined the decision.

Resolved

That, following consideration of the information contained in the report submitted and presented at the meeting, the following conditions be applied to the premises licence in respect of Bargain Booze (AKA Costcutter), Dibdale Road, Milking Bank, Dudley.

The Licensing Authority be requested to visit Bargain Booze (AKA Costcutter), Dibdale Road, Miking Bnak, Dudley within the preceding three months to ensure that the conditions were being adhered to.

Conditions

- (1) 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.
- (2) 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.
- (3) 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 a 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.
- (4) Any person who is suspected of purchasing alcohol for any person under age, shall be refused service.

Mr A Singh Grewal was informed of his right to appeal the decision of the Sub-Committee.

7

Transfer of Premises Licence and Variation of Designated Premises Supervisor – Local 201, Stourbridge Road, Halesowen

A report of the Strategic Director Place was submitted on an application for the review of the premises licence and variation of designated premises supervisor in respect of Local 201, Stourbridge Road, Halesowen.

The following persons attended the meeting in relation to the application:-

Mr B Nota – Applicant
PC A Baldwin – West Midlands Police
Miss K Turley – West Midlands Police

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

PC Baldwin outlined the reasons for their objections to the application and it was noted that Mr Nota was currently on bail until 16th September, 2016 when he was due to attend Court.

Mr Nota confirmed that he was currently on bail until 16th September, 2016 but stated that the only outstanding charge was that of failing to provide a breath specimen.

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

- (1) That, consideration of this application be deferred pending the outcome of the court hearing in relation to the Applicant on 16th September, 2016.
- (2) That a further meeting of this Sub-Committee, comprising the same Members including the substitute serving at this meeting, be held on Tuesday 20th September, 2016 to determine the application.

Reason for the Decision

This is an application dated 2nd June 2016 for transfer of an existing premises license from Mr. Satnam Singh Sandhu to Baiant Nota of 15 Springfield Road, Oldbury. Mr. Sandhu is also the current

Designated Premises Supervisor and it is intended that Baiant Nota will also become the new Designated Premises Supervisor. A representation has been made by the West Midlands police opposing the transfer application, based on the fact that Mr. Baiant Nota is not a fit person.

The police evidence was that on 22nd May 2016 he was charged with driving when uninsured and failing to give a breath test. He was not charged with a threatened assault on a police officer but this is recorded as a police marker. He is on court bail to 16th September 2016. The threatening behaviour was reported from the time he was detained in police cells and he allegedly made offensive and homophobic comments.

Mr. Nota denied that he was charged with threatening behaviour, and stated that it was not mentioned on his bail conditions. He also stated that the insurance details were later provided and this issue had also been resolved. The police confirmed that there was a note indicating this on their file. Thirdly he stated that the breath specimen could not be given, having tried very hard to give one, and he stated that this was due to a heart condition. No information was provided about why he did not give a urine or blood sample. He believed that he was initially "pulled over" due to his private number plates only.

Mr. Nota stated that he had one premise in Oldbury that is very successful. Previously he had been an area manager for Dominos Pizzas. This transfer was due to Mr. Nota purchasing the business from Mr. Sandhu as a going concern.

Having heard all of this evidence, the committee is not in a position to make a determination, until the matter has been concluded by the court. Until that point, the committee is not in possession of enough information to make a decision as to whether he is a fit person to hold a premises license.

The matter is therefore deferred for a decision in the first committee after 16th September 2016.

The meeting ended at 12.40 pm

CHAIR

LSBC2/6

Meeting of the Licensing Sub-Committee 1 – 26th July 2022

Report of the Interim Director of Public Realm

Notice of Temporary Event – 876 Lounge, 70 High Street, Dudley, DY1 1PY

Purpose

1. To consider the Notice of Temporary Event (TEN's) served on the Council by Mrs Ras Tafani Samuels, in respect of 876 Lounge, 70 High Street, Dudley, DY1 1PY.

Recommendation

2. That the Sub-Committee determine the Notice of Temporary Event following the receipt of an objection notice from Environmental Safety and Health.

Background

3. On the 15th July 2022, a Notice of Temporary Event was accepted by the Licensing Office from Mrs Ras Tafani Samuels in respect of 876 Lounge, 70 High Street, Dudley. The notice has been forwarded to Committee Members in accordance with the Licensing Act 2003. Copies have also been served on the two responsible authorities, Police and Environmental Safety and Health as required by statute.
4. The Notice of Temporary Event is as follows:-

Supply of Alcohol/Regulated Entertainment

31st July 2022

Sale of Alcohol 01.31 until 02.30

DJ Playing Music 01.46 until 02.45
Premises to close 03.00

This is an application for an additional 1 hour to the licensable activities permitted by the current premises licence.

5. The Notice was served on the Council within the required 10 working days, together with the correct fee.
6. On the 15th July 2022, objection notice to the Notice of Temporary Event was received from Environmental Safety and Health on the grounds of prevention of public nuisance. A copy of the objection notice has been forwarded to the Committee Members, the applicant and interested parties in accordance with the Licensing Act 2003. A copy of the current premises licence has also been forwarded to the Committee Members for their information.

Finance

7. There are no financial implications.

Law

8. Temporary Event Notices are governed by the Licensing Act 2003, Part 5 Sections 100 to 107 as amended by the Police Reform and Social Responsibility Act 2011.
9. In accordance with Section 104, the responsible Authorities Police and Environmental Safety & Health, may object if the proposed use of the premises would undermine the crime prevention, public nuisance or public safety objectives of the Licensing Act 2003
10. The relevant Licensing Authority must:-
 - (a) hold a hearing to consider the objection notice, unless the premises user, the responsible authority who gave the objection notice and the authority agree that a hearing is unnecessary , and
 - (b) having regard to the objection notice, give the premises user a counter notice under this section if it considers it appropriate for

the promotion of the crime prevention, public nuisance or public safety objective to do so.

Risk Management.

11. There are no risk management implications.

Equality Impact

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

Human Resources/Organisational Development

15. There are no human resources/organisational development implications.

Commercial/Procurement

16. There are no commercial/procurement implications.

Council Priorities and Projects

17. 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 815101
Email: simon.smith@dudley.gov.uk

Appendices

None

List of Background Documents

Current Premises Licence

Meeting of the Licensing Sub-Committee 1 – 26th July 2022

Report of the Interim Director of Public Realm

Notice of Temporary Event – Conyers Yard, Station House, Station Yard, Stourbridge, DY9 8ER.

Purpose

1. To consider the Notice of Temporary Event (TEN's) served on the Council by Mr Daniel Dawson, in respect of Conyers Yard, Station House, Station Yard, Stourbridge, DY9 8ER.

Recommendation

2. That the Sub-Committee determine the Notice of Temporary Event following the receipt of an objection notice from Environmental Safety and Health.

Background

3. On the 12th July 2022, a Notice of Temporary Event was accepted by the Licensing Office from Mr Daniel Dawson in respect of Conyers Yard, Station House, Station Yard, Stourbridge, DY9 8ER. The notice has been forwarded to Committee Members in accordance with the Licensing Act 2003. Copies have also been served on the two responsible authorities, Police and Environmental Safety and Health as required by statute.
4. The Notice of Temporary Event is as follows:-

Supply of Alcohol/Regulated Entertainment (Live Music)

28th until 30th July 2022 - 12.00 until 00.00
31st July 2022 - 12.00 until 20.00

There is currently an application under consultation for the grant of a New Premises Licence in respect of these premises.

5. The Notice was served on the Council within the required 10 working days, together with the correct fee.
6. On the 15th July 2022, objection notice to the Notice of Temporary Event was received from Environmental Safety and Health on the grounds of Public Safety. A copy of the objection notice has been forwarded to the Committee Members, the applicant and interested parties in accordance with the Licensing Act 2003.

Finance

7. There are no financial implications.

Law

8. Temporary Event Notices are governed by the Licensing Act 2003, Part 5 Sections 100 to 107 as amended by the Police Reform and Social Responsibility Act 2011.
9. In accordance with Section 104, the responsible Authorities Police and Environmental Safety & Health, may object if the proposed use of the premises would undermine the crime prevention, public nuisance or public safety objectives of the Licensing Act 2003
10. The relevant Licensing Authority must:-
 - (a) hold a hearing to consider the objection notice, unless the premises user, the responsible authority who gave the objection notice and the authority agree that a hearing is unnecessary , and
 - (b) having regard to the objection notice, give the premises user a counter notice under this section if it considers it appropriate for the promotion of the crime prevention, public nuisance or public safety objective to do so.

Risk Management.

11. There are no risk management implications.

Equality Impact

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

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15. There are no human resources/organisational development implications.

Commercial/Procurement

16. There are no commercial/procurement implications.

Council Priorities and Projects

17. 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 815101
Email: simon.smith@dudley.gov.uk