

Licensing Sub-Committee 1 - 27 February 2007

Report of the Director of Law and Property

Review of a Premises Licence

Purpose of Report

1. To consider the review of the premises licence in respect of Tony's Fish and Chip Shop, 40 Clarence Street, Dudley, West Midlands.

Background

2. On 26 September 2005, an application was received from Midlands Licensing Services on behalf of Kuljit Singh Dhillon in respect of Tony's Fish and Chip Shop, 40 Clarence Street, Dudley, West Midlands.
3. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities was received.
4. Representations were received from local residents and brought to the attention of the Committee.
5. This application was considered by the Committee on the 8 November 2005. The Committee resolved that the licence be issued for the following hours and additional conditions:-

Monday - Thursday inclusive	23.00 - 00.00
Friday and Saturday	23.00 - 01.00
Sunday	23.00 - 00.00

Signage outside premises shall read

- Do not park on double yellow lines, please use car park at rear.
- Please use the litter bins outside the premises and respect local residents

Please ensure that the existing planning restrictions are resolved as a matter of urgency.

6. A local resident has made application for the review of the premises licence on the following grounds:

- Non-compliance with conditions of existing licence
- Anti-social behaviour
- Noise from parked cars
- Litter and discarded food

A copy of their representations are attached to this report as Appendix 1.

7. The conditions of licence relating to signage as outlined in paragraph 5 of this report have been the subject of correspondence over the last twelve months between the Council, the interested party and a local MP.
8. The signage is currently displayed in the window of the premises on laminated A3 paper, this was brought to the attention of the Licensing Enforcement Officer by a complainant. Subsequent enquiries made to the Planning Department of the Council confirmed that planning permission would be needed to display signage outside of the premises if it exceeded 0.3 of a square metre.
9. On the 7th September 2006 this matter was brought to the attention of Councillors Ameson and Ryder who are both Members of the Licensing Sub-Committee one who were content that the notices displayed met the Members' original intention with regard to the condition of licence.
10. The Council has advertised the application for review of the premises licence in respect of Tony's Fish and Chip Shop in accordance with Licensing Regulation SI 2004 NO42 Section 38.
11. That application has been served on the relevant authorities.
12. The West Midlands Police made comments which are attached to this report as Appendix 2.
13. Representations were received from an interested party on the 17th January 2007, a copy of that letter together with all previous correspondence from interested parties is attached to this report as Appendix 3.
14. 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

15. There are no financial implications.

Law

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

17. Determination of application for review

52 (1) This section applies where-

- (a) The relevant licensing authority receives an application made in accordance with section 51,
- (b) the applicant has complied with any requirement imposed on him under subsection (3)(a) or (d) of that section, and
- (c) the authority has complied with any requirement imposed on it under subsection (3) (b) or (d) of that section.

(2) Before determining the application, the authority must hold a hearing to consider it and any relevant representations.

(3) The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

(4) The steps are -

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

(5) Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

(6) Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

(7) In this section “relevant representations” means representations which -

- (a) are relevant to one or more of the licensing objectives, and
- (b) meet the requirements of subsection (8).

(8) The requirements are-

- (a) that the representations are made-
 - (i) by the holder of the premises licence, a responsible authority or an interested party, and
 - (ii) within the period prescribed under section 51 (3) (c),
- (b) that they have not been withdrawn, and
- (c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

(9) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.

(10) Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to-

- (a) the holder of the licence
- (b) the applicant
- (c) any person who made relevant representations, and
- (d) the chief officer of police for the police area (or each police area) in which the premises are situated.

(11) A determination under this section does not have effect-

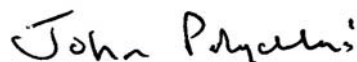
- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.

Equality Impact

- 18. This report complies with the Council's policy on equal opportunities.
- 19. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
- 20. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

- 21. That the Sub-Committee review this licence.



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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers

None