

Meeting of the Licensing Sub-Committee 1
Tuesday 21st March, 2023 at 10.00am
In Conference Room 9, Saltwells Education Development Centre,
Bowling Green Road, Netherton

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 meeting held on 2nd August, 2022 as a correct record (Pages 7 – 12)

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

5. Application for Grant of a New Premises Licence – The Coast Afro Cuisine, 31-32 King Street, Dudley, DY2 8NY (Pages 13 - 26)
6. 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: 13th March, 2023



Distribution:
Members of the Licensing Sub-Committee 4

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

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No smoking

- There is no smoking on the 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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- In the event of the alarms sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.

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, 2nd August, 2022 at 10.00 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, G Gray – Assistant Democratic Services Officer and K Griffiths – Democratic Services Officer (Directorate of Finance and Legal).

7. Declarations of Interest

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

8. Application for a Licensed Premises Gaming Machine Permit – The Cross Inn, High Street, Kingswinford

A report of the Interim Director of Public Realm was submitted in respect of an application for the grant of a Licensed Premises Gaming Machine Permit for four Category C machines at the premises known as The Cross inn, High Street, Kingswinford.

The following persons were in attendance at the meeting:-

Mr R Minns – Area Manager
Miss G Tandy – Pub Manager

Following introductions, the Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council, advising that an application had been received on 10th June, 2022 from JD Wetherspoon PLC for grant of a licensed premises Gaming Machine Permit for four Category C machines at The Cross Inn, High Street, Kingswinford. It was noted that the premises held a permit for three Category C machines.

Mr R Minns (Area Manager) confirmed that the application would be to increase the Gaming Machine Permit from three to four Category C gaming machines owing to the rise of demand.

It was reported that all gaming machines were supervised by staff from the bar area and were within sight view, that digital machines would require additional approval from participants to confirm whether they were over eighteen, that all staff were trained to enforce the Challenge 25 policy together with additional refresher training being undertaken periodically. It was advised that a duty manager would continually be on site and that internal challenge tests were frequently initiated at the premises.

In responding to comments made by R Clark, Principal Solicitor regarding the floor plan of the bar area, the location of the gaming machines were established and it was confirmed that all staff would be able to view and continually monitor all gaming machines from the main bar area.

Following the summing up from all parties, the Sub-Committee came to their conclusion and the Chair of the committee outlined the decision.

Resolved

That, following consideration of the information contained in the report submitted, the grant of a Licensed Premises Gaming Machine Permit for four Category C machines in respect of the premises known as The Cross Inn, High Street, Kingswinford, be approved.

9. **Application for Licensed Premises Gaming Machine Permit – The Red Lion, Bull Ring, Dudley**

A report of the Interim Director of Public Realm was submitted in respect of an application for the grant of a Licensed Premises Gaming Machine Permit for three Category C machines at the premises known as The Red Lion, Bull Ring, Dudley.

The following persons were in attendance at the meeting:-

M Finnemore – Regional/Area Manager
R Noon – Pub Manager



LSBC1/15

Following introductions, the Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council, advising that an application had been received on 20th June, 2022 from The Craft Union Pub Company Ltd for grant of a licensed premises Gaming Machine Permit for three Category C machines at The Red Lion, Bull Ring, Dudley. It was noted that the premises held a notification for up to two Category C machines.

Arising from questions raised by R Clark, Principal Solicitor, it was confirmed that the premises had undergone a full refurbishment whereby planners had specified where the gaming machines would be situated, that the premises held a notification for up to two Category C machines and were seeking a third, that all gaming machines were supervised by staff, were within sight view and that staff were regularly on and off the bar to check areas for activity.

In responding to comments made by R Clark, Principal Solicitor regarding the floor plan of the bar area, it was confirmed that a door leading to the smoking area at the back of the premises would be enclosed, that it was within view of the bar area and monitored by staff to prevent underage individuals gaining access.

Following the summing up from all parties, the Sub-Committee came to their conclusion and the Chair of the committee outlined the decision.

Resolved

That, following consideration of the information contained in the report submitted, the grant of a Licensed Premises Gaming Machine Permit for three Category C machines in respect of the premises known as The Red Lion, Bull Ring, Dudley, be approved.

10. Change in Order of Business

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

Resolved

That the order of business be varied and the agenda items be considered in the order set out in the minutes below.

11. Application for Grant of Consent to Engage in Street Trading – Build A Burga Ltd

A report of the Interim Director of Public Realm was submitted in respect of an application made by Mr M Ikhlas (Build A Burga Ltd) for the grant of a consent to engage in street trading in Dudley Town Centre.

The following persons were in attendance at the meeting:-



Mr M Ikhlas – Applicant

Mr D Jacobs – Project Engineer - Traffic, Transportation and Engineering Services

Following introductions, the Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council, advising that an application had been received from Mr M Ikhlas on 23rd May, 2022 for the grant of a consent to engage in street trading in Stone Street Square, Dudley to sell Burgers, Fries and Canned Drinks, Monday to Sunday between the hours of 12pm to 11pm. The application together with details of the proposed site and photographs of the trading vehicle had been circulated to the Committee and interested parties.

It was reported that comments had been received from Environmental Health and Trading Standards and Traffic, Transportation and Engineering Services concerning the positioning of the van within Stone Street Square, Dudley and that amplified music or announcements were not to be played.

Mr D Jacobs, Project Engineer - Traffic, Transportation and Engineering Services, made comments on behalf of the Highways Department and it was noted that there were no objections concerning the application for street trading. In referring to the plan circulated to Members, it was advised that additional parking had been provided in Stone Street Square, that the area had a hard landscape circular feature together with ornamental block work to enable pedestrians to walk through and it was recommended that the location of the van should not prevent pedestrians having free flow to the bus stop and pedestrian crossing. It was reported that in the main part Stone Street Square was owned by a separate Committee.

Mr M Ikhlas then presented his case and in doing so stated that should the application be granted he would be agreeable to situate the van wherever the Sub-Committee deemed appropriate. Mr Ikhlas commented that it would not be suitable for the van to be situated outside the Glasshouse Restaurant and suggested that the van be situated alongside the bus stop

In referring to the pictures provided, Mr Ikhlas confirmed that the van would be serving Burgers, Fries and Canned Drinks from a hatch opening, that a high demand through local businesses and college students was expected, that the business would be unique to the town, and it was felt that the van would be popular.

In responding to questions raised by a Member concerning what days the business would be running, it was established that the business would be open from 12pm to 9pm each day with a view to preferably being open from 12pm to 10pm or 11pm on Fridays and weekends and that the business would not operate on Wednesdays.

In responding to a question by a Member regarding the hygiene and wash facilities, Mr Ikhlas stated that the van had cleaning facilities and electricity outlets on board that would be connected.



LSBC1/17

In response to a further question raised by the Sub-Committee relating to whether any music would be played, it was confirmed that no music other than background music from a radio on board would be playing and that the operation would not be able to work efficiently should amplified music be installed.

In response to a comment made by the Chair, the Assistant Team Manager (Licensing and Waste Enforcement) stated that there had been no objections concerning the application of street trading from the Highways Department, however, the Committee that owned Stone Street Square could be contacted direct regarding the location.

Following submissions and questions, all parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

Having made their decision, the meeting was reconvened, and it was

Resolved

That, following careful consideration of the information contained in the report submitted and presented at the meeting, the application made by Mr M Ikhlas (Build A Burga Ltd) for the grant of a consent to engage in street trading in Dudley Town Centre be approved subject to the relevant Department to confirm in writing the precise location on which the applicant could trade at Stone Street Square, Dudley.

12. Application for Grant of Consent to Engage in Street Trading – Fresh Donuts, Dudley Town Centre

A report of the Interim Director of Public Realm was submitted in respect of an application made by Mr P and Mrs N Westwood (Fresh Donuts) for the grant of a consent to engage in street trading in Dudley Town Centre.

The following persons were in attendance at the meeting:-

Mr P and Mrs N Westwood (Fresh Donuts) – Applicant

Following introductions, the Assistant Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Council, advising that an application had been received from Mr P and Mrs N Westwood on 23rd May, 2022 for grant of a consent to engage in street trading in Castle Street, Dudley to sell Fresh Donuts, Sauce Pots, Hot and Cold Drinks Monday to Sunday between the hours of 7am to 5pm. The application together with details of the proposed site and photographs of the trading vehicle had been circulated to the Committee and interested parties.



LSBC1/18

It was reported that no objections had been made and that Street Trading consent had been given to a former permit holder within the same location, which had since been discontinued.

Mr P Westwood then presented his case and in doing so advised that the business had been established for five years, that the business worked well alongside Wyre Forest Council, that all staff had been fully trained in hygiene and that the business was fully licenced. It was confirmed that the van would be situated at the same location as the previous permit holder.

Following submissions and questions, all parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

Having made their decision, the meeting was reconvened, and it was

Resolved

That, following careful consideration of the information contained in the report submitted and presented at the meeting, the application made by Mr P and Mrs N Westwood (Fresh Donuts) for the grant of a consent to engage in street trading in Dudley Town Centre be approved on the grounds that the business will trade in the exact location of the previous permit holder and that the relevant Department to confirm in writing the precise location on which the applicant could trade at Castle Street, Dudley.

The meeting ended at 11.15am

CHAIR

Meeting of the Licensing Sub-Committee 1 - 21st March 2023

Report of the Interim Director of Environment Directorate

Application for Grant of a New Premises Licence

The Coast Afro Cuisine 31 – 32 King Street, Dudley, DY2 8NY

Purpose

1. To consider the application for the grant of a new premises licence in respect of the premises known as The Coast Afro Cuisine, 31 -32 King Street, Dudley.

Recommendation

2. That the Sub-Committee determine the application for the grant of a premises licence in light of representations raised.

Background

3. On the 27th January 2023, an application for the grant of a new premises licence was received from PMB Licensing on behalf of Augustine Nsinga in respect of the premises known as The Coast Afro Cuisine, 31 – 32 King Street, Dudley. A copy of that application has been forwarded to the Committee Members and interested parties in accordance with the Licensing Act 2003.
4. The application had the following documents enclosed:-
 - Plan of the premises



- Correct fee
- Consent of the DPS

5. The application for a premises licence is as follows:

Supply of Alcohol(regulated entertainments – live music/recorded music/performance of dance

Monday to Sunday 10.00 until 02.00

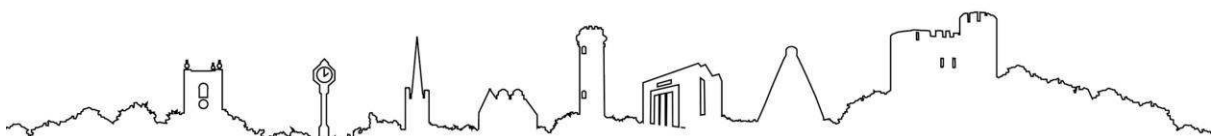
Late Night Refreshment

Monday to Sunday 23.00 until 02.00

Premises Open to the Public

Monday to Sunday 10.00 until 02.30

6. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
7. Representations have been received from a local business the Licensing Authority the West Midlands Police and the West Midlands Fire Service. Copies of the representations have been forwarded to the Applicant, Committee Members and Interested parties in accordance with the Licensing Act 2003.
8. These premises are a restaurant and bar there is currently a premises licence in place at 32 King Street only. The applicant has taken over the premises at number 31 and is therefore applying for a new premises licence to cover both premises. Coast Afro Cuisine 32 King Street, has previously been before the Committee on the 15th May 2018 the Committee resolved at that time to refuse the application for variation of premises licence. A copy of the minutes from that meeting are attached to this report as Appendix 1.

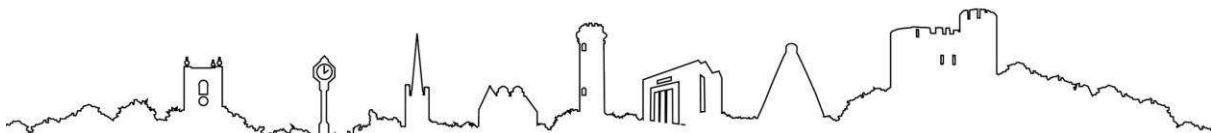


Finance

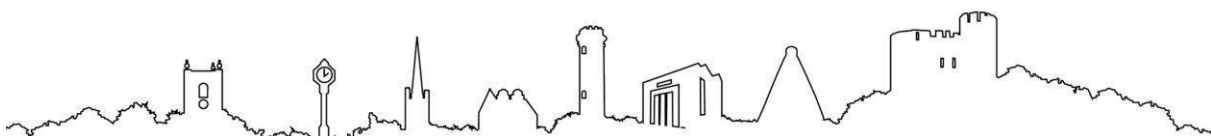
9. There are no financial implications.

Law

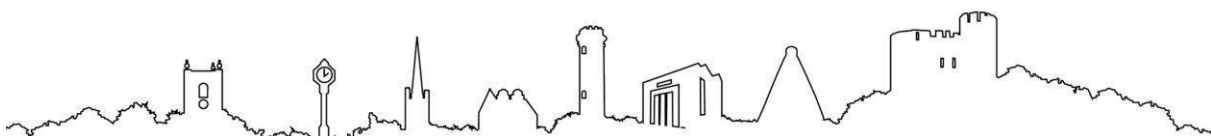
10. The law relating to the determination of applications for the grant of a premises licence is governed by the Licensing Act 2003, part 3, section 18.
11. Pursuant to Section 18(3) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
- (a) hold a hearing to consider them, unless the authority, the applicant each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the Licensing objectives.
12. Pursuant to Section 18 (4) the steps are:-
- (a) to grant the licence subject to:-
 - (i) such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under section 19, 20 or 21 be included in the licence;



- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application
13. Pursuant to Section 23(1) of the Licensing Act 2003 where an application (or any part of an application) is granted under section 18 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to:-
- 1 (a) (i) the applicant
 - 1 (a) (ii) any person who made relevant representations in respect of the application and
 - 1 (a) (iii) the Chief Officer of Police for the police area in which the premises are situated and
 - 1 (b) issue the application with the licence and a summary of it
14. Pursuant to section 23(2) where relevant representations were made in respect of the application, the notice under subsection (1)(a) must state the authority's reasons for its decisions as to the steps (if any) to take under section 18(3)(b).
15. Pursuant to section 23(3) where an application is rejected under section 18, the licensing authority must forthwith give a notice to that effect stating its reasons for the decision, to
- (a) the applicant
 - (b) any person who made relevant representations in respect of the application, and



- (c) the Chief of Police for the police area or each police area in which the premises are situated
16. Where a Local Authority grant a licence under section 18 pursuant to schedule 5 of the Licensing Act, section 2 the holder of the licence may appeal against any decision:-
- (a) to impose conditions on the licence under subsection (2)(a) or 3(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor)
17. Where a person who made relevant representations in relation to the application desires to contend:-
- (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section, he may appeal against the decision.
18. In pursuance of regulation 26(2) of the Licensing Act 2003 (Hearing Regulations 2005) the Licensing Authority must make its determination within 5 working days of the conclusion of the hearing.
19. If the Licensing Authority refuse to grant the application, there is a right of appeal. The appeal under this part must be made to a Magistrates' Court pursuant to schedule 5 section 9 of the Licensing Act 2003.



Risk Management

20. There are no risk management implications.

Equality Impact

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

Human Resources/Organisational Development

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

Commercial/Procurement

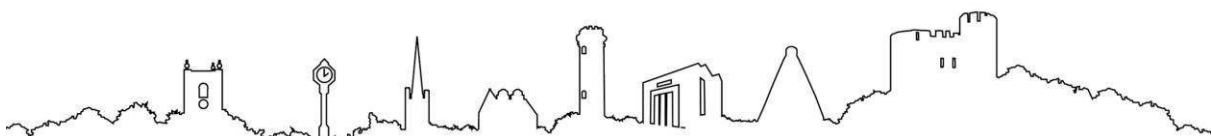
25. There are no commercial/procurement implications.

Environment/Climate Change

26. There are no Environment/Climate Change implications

Council Priorities and Projects

27. 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 Environment Directorate

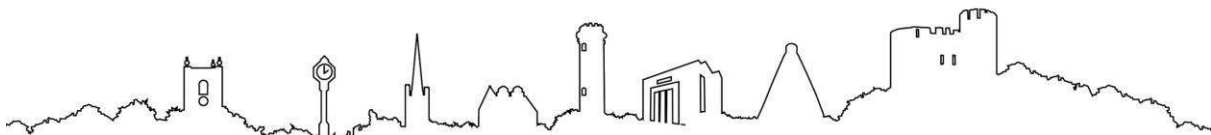
Report Author: Mr S Smith
Telephone: 01384 815377
Email: simon.smith@dudley.gov.uk

Appendices

Appendix 1 – Minutes from Sub-Committee 4 15th May 2018.

List of Background Documents

None



Minutes of the Licensing Sub-Committee 4

Tuesday 15th May, 2018 at 10.00 am
In the Council Chamber, The Council House, Dudley

Present:-

Councillor C Elcock (Chair)
Councillors J Baines and C Perks

Officers:-

B Hughes – Assistant Team Manager Waste and Fleet Care (Place Directorate);
R Clark – Solicitor and K Griffiths – Democratic Services Officer (Chief Executive's Directorate).

62 **Apologies for absence**

Apologies for absence from the meeting were submitted on behalf of Councillors J Cowell and A Taylor.

63 **Appointment of Substitute Members**

It was noted that Councillors J Baines and C Elcock had been appointed as substitute members for Councillors J Cowell and A Taylor respectively for this meeting of the Sub-Committee only.

64 **Declarations of Interest**

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

65 **Application to Vary a Premises Licence – The Coast Afro Cuisine, 32 King Street, Dudley**

A report of the Strategic Director Place was submitted on an application for variation of the premises licence in respect of the premises known as The Coast Afro Cuisine, 32 King Street, Dudley.

The following persons were in attendance at the meeting:-

Mrs A Nsinga – Designated Premises Supervisor (DPS)
Mr D Nsinga – Manager of The Coast Afro Cuisine
K Turley – West Midlands Police
D Jenkins – West Midlands Police
K Mullings – Enforcement Officer

Following introductions, the Assistant Team Manager Waste and Fleet Care presented the report on behalf of the Council. It was noted that CCTV footage had been provided by the West Midlands Police showing a recording of two females pulling up in a taxi with one woman observed to be consuming a substance and then both women entering the premises at 02.53 hours on 28th April, 2018, outside the permitted licensing hours. The footage was viewed prior to the meeting by all parties, however, it was available to present during the hearing, should it be necessary.

D Jenkins made representations on behalf of West Midlands Police, raising objections to the variation of premises licence in order to prevent crime and disorder, making particular reference to information that had been received, on three separate occasions, in relation to the premises operating outside of their current licensing conditions. CCTV footage to corroborate the complaints had been viewed and despite having been informed in January 2018 that in order to prevent future breaches of the premises licence, a variation to the licence or a Temporary Event Notice would need to be applied for, Mrs Nsinga, DPS continued to breach the premises licence on two further occasions, ignoring the advice that had been provided.

On 13th April, 2018, the West Midlands Police Local Neighbourhood Sergeant and a Local Authority Enforcement Officer visited the premises, however, no contravention of the premises licence had been observed.

Negotiations/mediation with the DPS and Manager of The Coast Afro Cuisine had been attempted in relation to the proposed opening hours of the premises and the times requested for recorded/live music, however, these had failed. It was noted that the DPS had no intention of having live music playing at the establishment. During enquiries, the DPS informed West Midlands Police that the CCTV system recorded for 28 days and that two SIA registered door staff were employed on Friday and Saturday evenings, however, upon further questioning at the hearing, this information appeared to be incorrect. The Sub-Committee were informed, however, that following a visit to the establishment on 14th May, 2018, the premises now had CCTV recording for 28 days.

The Enforcement Officer presented representations on behalf of the Head of Fleet and Waste Care reiterating comments made above and confirmed that the representations made by West Midlands Police against the licensing hours requested were supported.

Mr Nsinga then presented his case and in doing so informed the Sub-Committee that The Coast Afro Cuisine was a new business and although training had been provided by the DPS, he recognised that more knowledge and understanding was required on the Licensing Law and objectives. He referred to the advice provided by the Enforcement Officer and the meeting which had taken place to mitigate issues and indicated that he had been grateful for the information provided and assured the Sub-Committee that he now understood his responsibility as a Manager. Although acknowledging the incident on 28th April, 2018, he indicated that he was not responsible for the actions of customers prior to entering the premises. It was noted that the footage in relation to the time the two customers entered the premises was the concern not what had been witnessed prior to the women entering. A discrepancy between the footage from the establishment and the Local Authority in relation to the time the customers entered the building was raised. It was noted that the time on the CCTV footage at the establishment was showing exactly an hour earlier than that reported by the West Midlands Police. Having considered the issue, the Sub-Committee were happy to rely on the Local Authority's footage as the system was tested and monitored frequently and used to provide evidence in various court cases.

Following questions from a Member it was confirmed that the DPS was a personal licence holder and that she was present at the premises at all times when operating.

In providing the circumstances of the breach of licence on 28th April, 2018, Mr Nsinga reported that the establishment was in fact closed, however, he had been unaware that the door providing entrance to the premises was open. He stated that there had been a few customers inside the establishment, however, these were all waiting for taxis, CCTV footage could be made available if required to support the comments.

Following questions from Members, it was reported that the capacity of the premises was 100 persons and the main purpose of the business was a restaurant/late night bar. The layout of the venue provided 9/10 tables with approximately 50 dining in the restaurant at any one time with no allocated area for a dancefloor. The idea of applying for recorded music was to increase business during weekdays.

In advising the Sub-Committee in relation to the complaint received in March, 2018, Mr Nsinga indicated that the complainant had a personal vendetta against him following an argument regarding parking. He also indicated that no further complaints by other establishments in the area had been received.

In responding to a question from a Member, Mr Nsinga confirmed that he was aware and understood the procedure in relation to applying for Special Event Notices. It was confirmed that private parties included Christenings and, Birthday parties.

Following confirmation of the operating hours of other establishments in the area and the purpose of staggering the licensing hours of those premises, Mr Nsinga indicated that he would be happy to alter the proposed variation to an extension of time to play recorded music to 2.30am and close at 3.00am in line with other premises in the area. In response to the proposed variation of licensing hours for live music/recorded music and opening hours, West Midlands Police advised the Sub-Committee that they had attempted to negotiate with the DPS and Mr Nsinga by suggested slightly earlier operating times than those applied for, however, these had been refused.

Mr Nsinga indicated that the Enforcement Officer had recommended the licensing hours applied for in the application. In response, the Enforcement Officer refuted the comment made and stated that she had advised many applicants in her previous role and only provided advice that was required.

In discussing security, the DPS confirmed door supervisors were not currently employed during operating hours as it was considered unnecessary, as the premises did not exceed 50 persons. It was confirmed that on one occasion, during a private party, Mr Nsinga had employed 2 door staff, however, these were not SIA registered but two people that he had previously worked with. In response, West Midlands Police challenged the comments made and referred to an e-mail received from the DPS on 3rd April, 2018 at 10.36am, which was read out during the hearing. Although slightly confusing, it clearly stated that SIA registered door staff were employed at the premises during Friday and Saturday evenings. The Sub-Committee expressed concern that despite the venue having a capacity of 100 persons, door staff were not employed. It was suggested that the DPS seriously considered taking advice and to employ security staff as when questioned in relation to what measures were put in place should the venue exceeded 50 person, the DPS and Mr Nsinga failed to convince the Sub-Committee that they had methods to control the situation should it occur.

Having heard the comments made at the meeting and refused the offer for further negotiations, West Midlands Police had serious concerns and considered that the DPS and Mr Nsinga had shown a clear mis-management of the premises and a blatant disregard to the premises licence and recommended that the Sub-Committee consider refusing the application.

The parties 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 Legal Advisor outlined the decision.

Resolved

That, following careful consideration of the information contained in the report submitted and presented at the meeting, the application to vary a Premises Licence in respect of The Coast Afro Cuisine, 32 King Street, Dudley, be refused for the reasons outlined below.

Reasons for Decision

This is an application dated 27th March 2018 by The Coast Afro Cuisine Ltd. to vary their premises licence to permit the venue to play live and recorded music each day to 2.00am and 3.30am on Fridays and Saturdays, and for the premises to remain open to 4.00am on Fridays and Saturdays. In addition the premises seeks to be able to hold private parties for an additional 1 ½ hours.

The premises licence holder is The Coast Afro Cuisine Ltd. and the DPS is Ms Nsinga. She attended today with Mr Delon Nsinga the Manager of the premises. He stated that he had been trained by his mother and had previously managed a licenced restaurant in the High Street. Ms Nsinga stated that she is at the premises all of the time that it is open. They stated that they currently have no door staff but would do if they had more than 50 persons in the premises. The E-mail communication with the police has been very confused on this issue. The E-mail communication (seen by the sub-committee) also appears to confirm that the premises had CCTV which recorded for 28 days, but that it did not at that point in time. It may well record for 28 days now.

The applicant today explained that the purpose of the application was to extend the hours for recorded (not live) music until 2.00am in line with the current hours. He did state that he could not be responsible for what people did outside the premises (in the bus stop for example) and could not know whether people were taking drugs outside. He confirmed that the maximum capacity for the club is about 100 persons but was not specific.

The applicant explained that the business of the club was a restaurant, and the licence to play music, which would be recorded music only, not live, was in order to increase weekday business. The maximum people for meals was about 50.

The Local Licensing Authority has raised concerns (further to complaints in January 2018) that prior to the application to vary, the premises were open beyond 2.00am. A meeting was convened in January 2018 and the issues discussed.

On 13th April 2018 a joint police/licencing authority visit was made to the premises at 11.35pm. No contravention of the premises licence condition was observed.

West Midlands Police have made representations that in March 2018 CCTV footage is available that shows the premises open with patrons dancing after 3.00am (beyond the time on the licence of 2.00am both for opening and sale of alcohol).

The police recommend that live/recorded music should be played no later than 2.00am on any night and that the premises should not be open any later than 2.30am on any night. They recommend that an additional 30 minutes for all activities and hours be granted on bank holidays and that private parties should be dealt with through Temporary Event Notices.

The police have also submitted a DVD which purports to show two women entering the premises on 28th April 2018 at 2.53am (the current closing hour being 2.00am), one having apparently consumed a substance in a bus shelter outside the premises.

The Sub-Committee notes that the premises licence was granted in September 2017, and that in the 6 – 7 months since that date, there is clear evidence that the premises has been open to customers on two occasions at around 3.00am when the conditions on the licence state that the closing time is 2.00am. The first occasion was in March 2018 (after there had been a meeting between the licencing authority and the premises management to discuss compliance with the licence conditions). The second was on 28th April 2018 after the application to vary had been made, but well before the Sub-Committee today. There was also a third incident in January 2018 when an initial complaint was made. The Sub-Committee is therefore very concerned that the premises appears to be opening when it wishes, regardless of the conditions on the original licence.

The applicant today confirmed that it sought no extension of the alcohol licencing hours, but did seek an extension of time to play recorded music to 2.30am and close at 3.00am in line with other premises in the area.

The Sub-Committee was also concerned that the DPS and Manager did not demonstrate a clear understanding of their business, that the application was completed in a very poor and unclear manner, and that their application today was very unclear and altered throughout the Sub-Committee hearing. Having read copies of the e-mail communication between them and the police, the communication has been very unclear and it was inaccurate when the applicant stated that the CCTV recorded for 28 days. At that time it did not.

The Sub-Committee therefore refuses the application for variation. The premises has not complied with the current conditions of the licence, the application to vary is very confused and some of the communication has been inaccurate. This gives the Sub-Committee no confidence that the premises would be managed in compliance with the licencing objectives, if the hours were increased.

In the light of the fact that the communication regarding the CCTV was inaccurate, the Sub-Committee does take the step to impose the following conditions on the premises licence.

1. CCTV to be in place at the premises and to be recording at all times when the premises are open for licensable activity, to the specifications of the West Midlands Police Crime Reduction Officer. All images are to be recorded and kept for a minimum of 28 days and made available to any responsible authority upon request on reasonable notice, and all staff are to be trained and able to operate and download CCTV. The hard drive is to be locked but readily accessible to staff.
2. The Premises License Holder will take proportionate steps to review the premises CCTV on a weekly basis in order to identify any concerns. A record of these checks shall be maintained and be available for inspection upon request by an officer of any responsible authority.

In terms of the application for increased hours for private parties, the Sub-Committee is satisfied that these can be managed by applications for a Temporary Event Notice.

The meeting ended at 12.05pm

CHAIR

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