



Licensing Sub-Committee 1

**Tuesday, 3rd February, 2015 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 meeting held on 9th December, 2014 as a correct record
5. Application for Review of Premises Licence - KKA, 118 Cinder Bank, Dudley (Pages 1 – 5)
6. Application for a Premises Licence - Halesowen Cricket Club, Seth Somers Park, Grange Road, Halesowen (Pages 6 – 9)
7. To consider any questions from Members to the Chair where two clear days notice has been given to the Strategic Director (Resources and Transformation) (Council Procedure Rule 11.8).

A handwritten signature in black ink, appearing to be "P. J. H.", is written over a horizontal line.

Strategic Director (Resources and Transformation)

Dated: 22nd January, 2015

Distribution:

Councillor D Russell (Chair); Councillors D Blood and C Perks

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- The Democratic Services contact officer for this meeting is Karen Taylor, Telephone 01384 818116 or E-mail karen.taylor@dudley.gov.uk

Minutes of the Licensing Sub-Committee 1

Tuesday 9th December, 2014 at 10.35 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor D Russell (Chair)
Councillors C Perks and E Taylor

Officers:-

R Clark (Legal Advisor), M Hanson (Licensing Clerk), B Hughes (Licensing Enforcement Officer) and K Buckle (Democratic Services Officer) – All Directorate of Corporate Resources and D McNaulty (Manager) – Directorate of Public Health.

Also in Attendance:-

PC A Baldwin and PC S Cheema – West Midlands Police, A Evans – Counsel for West Midlands Police and N Aston-Baugh – Fire Safety Officer, West Midlands Fire Service.

12 **Declarations of Interest**

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

13 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 25th November, 2014, be approved as a correct record and signed.

14 **Application for Expedited Licence Review – PULSE Nightclub, Brierley Hill**

A report of the Director of Corporate Resources was submitted on the expedited licence review in respect of the premises Licence for PULSE, 17 Dudley Road, Brierley Hill. DY5 1HA.

The Chair advised that Mr Simpson the Designated Licence Holder of PULSE Nightclub had surrendered his Licence today however, the Licence could be revived by an Application to Transfer by any interested party within 28 days from the date of surrender. The Chair invited Counsel for West Midlands Police to make representations.

Counsel for West Midlands Police advised of the unusual situation relating to the expedited review which had arisen from the fact that the Police had serious concerns that there was a risk of serious injury or fatality should the premises Licence not be revoked. Counsel referred to the surrender of the Licence which had resulted in the Licence lapsing, however advising that the Licence could be revived should an interested party make an application for transfer with interim immediate effect within 28 days from the date of surrender.

Given the unusual situation Counsel advised that it was unclear whether the Sub-Committee were bound to deal with the review hearing today, as Section 53(a) to (c) of the Licensing Act 2004 was silent on the point as to whether a surrendered licence would have to be reviewed within 28 days from the date of the original suspension of the premises licence.

Counsel requested the Sub-Committee to order that the interim steps remain in force for a further 28 days as the original intent of the Sub-Committee was that the premises remain closed until a review was held.

In responding to a question from the Legal Advisor, Counsel advised that there were concerns in relation to the period between the Licensing Authority transferring the Licence to an interested party with immediate effect and the Police becoming aware that the transfer had taken place and taking any action.

Counsel referred to the close association of the Pulse Night Club with serious organised crime, the four reported incidents during the year and incidents ranging from disorder to stabbings. There were also concerns that in relation to the culmination of events on 2nd November, 2014 there had been an element of certain clientele on the premises who were positively associated with three of the gangs who were associated with serious organised crime within the West Midlands. It was noted that the Police had serious concerns that should the Pulse Nightclub continue to operate this would result in a fatality.

Counsel advised that the Pulse Nightclub was tainted with organised crime and fear with the premises being known to have a tolerance with organised gang members and it was therefore important that the premises had a reasonable break in trading.

In responding to a question from a Member, Counsel stated that although it could not be pinpointed as to which particular gangs attended particular Urban events when those events occurred they were attended by those relatives or friends affiliated with various gangs and in addition to being fuelled with alcohol that had culminated in serious violence and harm being inflicted and the only method of controlling those problems would be for the premises owner to have zero tolerance.

Counsel advised that the closed circuit television at the premises had not been in operation since July, 2014 and staff at the premises had failed to assist the Police with their investigations in relation to the incidents of violence at the premises which had impacted on securing convictions of the perpetrators.

In responding to a question relating to capacity, PC A Baldwin stated that the Pulse Nightclub had a capacity of 1200 people. The Fire Safety Officer, West Midlands Fire Service added that for the purposes of fire safety this was controlled under the occupiers own fire safety risk assessment and it was believed that fire officers had previously attended the premises and expressed concerns in relation to fire safety and as a result of that a consultation was continuing regarding reducing the capacity of the premises.

Photographs of the interior of the premises were circulated to Members in order to illustrate the fire risks which had raised concerns.

A Member requested details of the images captured outside the Pulse Nightclub on 2nd November, 2014 and PC S Cheema advised that as investigations in relation to the incident were ongoing these could be viewed by Members in private and confirmed that the images had captured the post events and parts of the incident which occurred outside the Nightclub on the opposite side of the road.

Mr B Hughes, Licensing Enforcement Officer advised that Licensing strongly supported the Police advising that the conditions of the Pulse Nightclub Licence had been breached and that a robust, strong management team were required at the premises.

Counsel advised that there had been six conditions of Licence breached and that this was the second review of Licence in relation to the premises as there had been historic problems at the premises and Mr Simpson the now former premises licence holder had been aware of the historical problems.

Mr B Hughes, Licensing Enforcement Officer advised that the Security Watchdog had grave concerns in relation to the security firm who had been employed at the premises as none were SIA registered staff and PC A Baldwin advised that there would be a full investigation of the Company who provided the security staff at the Pulse Nightclub.

Counsel advised that the Sub-Committee were being requested to revoke the Premises Licence and confirm that the interim step taken in relation to the now surrendered licence remain in force for a further 28 days or until the conclusion of any appeal against the decision to allow the interim step to continue to take effect, upon the basis of all of the representations made today both those which were historic and those incidents which had occurred whilst Mr Simpson was the Premises Licence holder, in order to prevent the risk of further crime and disorder.

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

That, following careful consideration of the information presented at the meeting,

- (1) The premises licence in respect of the Pulse Nightclub, 17 Dudley Road, Brierley Hill be revoked with immediate effect.
- (2) The the suspension of the now surrendered Licence shall remain in force for a further 28 days or until the conclusion of any appeal against the decision to allow the interim step to continue to take effect.

Reasons for Decision

This is an expedited review of the Premises License of the Pulse Nightclub, Brierley Hill, brought by the West Midlands Police. The Licensing Authority convened a meeting on 14th November to consider whether it was necessary to take any interim steps prior to the full review, in order to promote any of the licensing objectives. It took the step of suspending the license, and this step was appealed by the Premises License Holder at a hearing on 19th November. The sub-committee heard evidence from the Premises Licence Holder and decided to uphold the interim step. However, this is a full review, with new and full evidence and the sub-committee recognises that this is a very different hearing to the meeting that considered the need for any interim steps.

The Sub-committee learned this morning that Mr. Simpson the Premises Licence Holder had surrendered the Premises Licence this morning by handing it to the Licensing Authority, and having communicated that he intended to do this by e mail on 8th December 2014.

Therefore, since the Premises Licence has been surrendered today, the sub-committee has to decide whether it has to or should continue with the review. The statute states that a review must take place within 28 days, but does not make it clear what the process should be in the circumstances of the Premises Licence being surrendered. The Sub-committee therefore concludes that it must proceed with the review of the premises licence today. Mr. Simpson has not attended, believing that having surrendered his licence, he has no further role to play in the review.

The Sub-committee is satisfied that the Pulse Nightclub has gained a reputation for gang affiliated crime, and as a club that tolerates gang activity and serious crime. The police evidence is that there have been four serious incidents of crime there in the last year, including a shooting which is being pursued through the courts and the double stabbing on 2/11/14, which also saw a man assaulted with a glass and further assaults. This reputation goes beyond the specific management of the premises by the previous Premises Licence Holder Mr. Simpson, and it is clear that the club itself has gained a reputation which attracts members from at least three major gangs based outside Dudley, and has become a venue for violence and serious crime. For these reasons, the sub-committee revokes the premises licence today. It does this on the basis that it believes that it must hold this review despite the fact that the premises licence has been surrendered. There is a right of appeal from this decision, which must be exercised within 21 days.

The sub-committee also considers the position of the licence in the event that it should not have proceeded to review a surrendered premises licence. It is mindful that an application for transfer of a surrendered licence can be made by an interested party. In the light of the findings made about the reputation of the nightclub for serious gang related crime and disorder, the sub-committee confirms that the interim step taken in relation to the now surrendered licence (its suspension) shall remain in force for a further 28 days or until the conclusion of any appeal against the decision to allow the interim step to continue to take effect.

The meeting ended at 12.10pm.

CHAIR

Licensing Sub-Committee 1 – 3rd February 2015

Report of the Strategic Director (Resources and Transformation)

Application for Review of Premises Licence

Purpose of Report

1. To consider the application for the review of the premises licence in respect of KKA, 118, Cinder Bank, Dudley, DY2 9BP.

Background

2. KKA was first issued with a premises licence on the 1st November 2005, the current premises licence is issued for the following:

Sale of Alcohol

Monday – Saturday	08.00 until 23.00
Sundays	10.00 until 22.30
Good Friday	08.00 until 22.30
Christmas Day	12.00 until 15.00
	19.00 until 22.30

3. On the 15th December 2014, an application for the review of the premises licence was received from the Public Protection Manager (Food and Consumer Safety). A copy of that application has been circulated to Committee Members and interested parties in accordance with the Licensing Act, 2003.
4. The Council has advertised the application for review of the premises licence in accordance with Licensing Regulation S1, 2004, No. 42, Section 38. A copy of that notice is attached to this report as Appendix 1.
5. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
6. The current premises licence holder is Mrs A Parveen.
7. 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

8. There are no financial implications to the Council.

Law

9. 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
10. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
11. The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
12. 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.
13. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
14. 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.
15. 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).
16. 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.
17. 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.
18. 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.
19. 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
20. Pursuant to schedule 5 part 1, section 8(2)
- An appeal may be made against the decision of the committee by –
- a) the applicant for the review
 - b) the holder of the premises licence or
 - c) any other person who made relevant representations in relation to the application for review.

Equality Impact

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.

Recommendation

24. That the Sub-Committee determine the review of the premises licence in respect of KKA, 118 Cinder Bank, Dudley, DY2 9BP.



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STRATEGIC DIRECTOR (RESOURCES AND TRANSFORMATION)

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List of Background Papers

DUDLEY METROPOLITAN BOROUGH COUNCIL

www.dudley.gov.ukREVIEW OF PREMISES LICENCE
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to KKA, 118
Cinder Bank, Dudley, DY2 9BP

Interested parties and relevant authorities may make
representations in writing to the Licensing Office, Law and
Governance, Unit 1 Hurst Business Park, Narrowboat Way,
Brierley Hill, West Midlands, DY5 1UF between 16th December
2014 and 12th January 2015

The Review of Licence has been requested by a relevant authority
on the grounds of

- Prevention of crime and disorder

The details of the grounds for review may be inspected at the
Licensing Offices (address as above) between the hours of 08.30
am and 4.00pm (Monday to Friday except Public Holidays).

It is an offence knowingly or recklessly to make a false statement
in connection with an application and the maximum fine for which a
person is liable on summary conviction for the offence is £5,000.



P J Tart

Director of Corporate Resources

Licensing Sub-Committee 1 – 3rd February 2015

Report of the Strategic Director (Resources and Transformation)

Application for a Premises Licence – Halesowen Cricket Club

Purpose of Report

1. To consider the application for the grant of a premises licence in respect of the Halesowen Cricket Club, Seth Somers Park, Grange Road, Halesowen, B63 3EG.

Background

2. On the 2nd December 2014 an application for the grant of a new premises licence was received from Halesowen Cricket Club, in respect of the premises known as Halesowen Cricket Club, Seth Somers Park, Grange Road, Halesowen, B63 3EG. A copy of that application has been forwarded to the Committee Members and interested parties in accordance with the Licensing Act 2003.
3. The application had the following documents enclosed:-
 - Plan of the premises
 - Correct Fee of £190.00
 - Consent of proposed premises supervisor
4. The application for a premises licence is as follows:

Sale of Alcohol/Films

Monday – Sunday inc. 06.00 – 02.00 the following day.

Regulated Entertainment (Live Music/Recorded Music/Dance)

Monday – Sunday inc. 12.00 – 02.00 the following morning.

Late Night Refreshments

— Monday – Sunday inc. 23.00 – 02.00 the following morning.

5. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.

6. Representations have been received from a local resident, a copy of which has been forwarded to the applicant, Committee Members and Interested parties in accordance with the Licensing Act 2003.
- 7 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

- 8 There are no financial implications.

Law

- 9 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.
10. 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 appropriate for the promotion of the Licensing objectives.
11. Pursuant to Section 18 (4) the steps are:-
 - (a) to grant the licence subject to:-
 - (i) conditions that are consistent with the operating schedule accompanying the application modified to such an extent as the authority considers appropriate for the promotion of the licensing objectives, and
 - (ii) any condition which must under section 19, 20 or 21 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
12. 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
13. 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).
14. Pursuant to section 23(3) where an application is rejected under section 18, the licensing authority must immediately 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 area in which the premises are situated
- 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)
15. 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.
16. In pursuance of regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005) the Licensing Authority must make its determination at the conclusion of the hearing.
17. If the Licensing Authority refuse to grant the application, there is a right of appeal to the Magistrates' Court pursuant to schedule 5 section 18 part 1(a).

Equality Impact

18. This report takes into account 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 determine the application.



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STRATEGIC DIRECTOR (RESOURCES AND TRANSFORMATION)

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List of Background Papers