

**Meeting of the Licensing Sub-Committee 3
Tuesday 25th October, 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)**

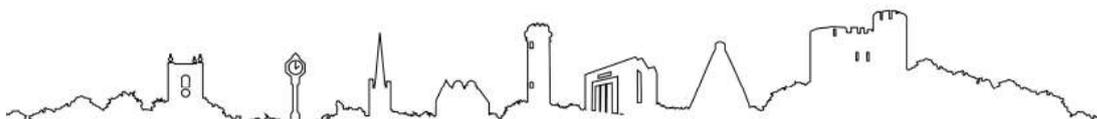
1. Apologies for absence.
2. To report the appointment of any substitute Members for this meeting of the Sub-Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm and sign the minutes of the meetings held on 21st December, 2021 as a correct record (Pages 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 – Tapri, 404 Himley Road, Gornal Wood, Dudley (Pages 13 - 18)
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: 17th October, 2022**



Distribution:
Members of the Licensing Sub-Committee 3

Councillor A Taylor (Chair)
Councillors T Creed and K Finch

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To continue to protect vulnerable people, you are asked to note the following information when attending meetings:-

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- If you cannot maintain distancing or in a crowded environment, please wear a mask

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- Toilet facilities are available on site and are subject to safety measures that are in place. All the toilets have hand washing facilities.

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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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- If you (or anyone you know) requires assistance to access the venue, or if you have any other queries, please contact Democratic Services - Telephone 01384 815238 or E-mail Democratic.Services@dudley.gov.uk

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 Licensing Sub-Committee 3
Tuesday 21st December, 2021 at 10.50am
In the Council Chamber, The Council House, Dudley**

Present:

Councillor A Taylor (Chair)
Councillors P Drake and K Razzaq

Officers:

S Smith – 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).

9. **Apology for absence**

An apology for absence from the meeting was submitted on behalf of Councillor C Elcock.

10. **Appointment of Substitute Member**

It was reported that Councillor K Razzaq had been appointed as a Substitute Member for Councillor C Elcock for this meeting of the Sub-Committee only.

11. **Declarations of Interest**

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

12. **Minutes**

Resolved

That the minutes of the meeting held on 26th October, 2021, be approved as a correct record and signed.

13. **Application to Vary a Premises Licence – The New Inn, 2 Cherry Street, Stourbridge**

At the request of the applicant and with agreement of the Sub-Committee, this item of business was deferred to a future meeting.

14. **Application for Grant of a New Premises Licence – Anatolia Grill Bar, 41 High Street, Stourbridge**

A report of the Acting Director of Public Realm was submitted on an application for the grant of a new premises licence in respect of the premises known as Anatolia Grill Bar, 41 High Street, Stourbridge.

The following persons were in attendance at the meeting:-

Y Ozdemir – Applicant, together with an interpreter
A Sahin – Designated Premises Supervisor (DPS)
A Brookes – Applicant’s friend
D Jenkins – West Midlands Police
K Turley – West Midlands Police
PC D Ingley – West Midlands Police

The Chair welcomed everyone to the meeting. Following introductions, the Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Local Authority.

D Jenkins, on behalf of West Midlands Police, referred to representations submitted on 20th October, 2021, concerning the application for a new premises licence on the grounds that the application lacked sufficient detail regarding Closed-Circuit Television (CCTV), which subsequently did not satisfy the licensing objective in relation to the prevention of crime and disorder. It was reported that West Midlands Police had attempted to contact the applicant to address the issue, however the applicant had failed to respond to the email correspondence sent.

Further representations were also made on 18th November, 2021, in that West Midlands Police, together with Dudley Licensing Enforcement Team, had attended the premises on 12th November, 2021, following reports that the premises was serving and displaying alcohol without a premises licence. During the visit, Mr Ozdemir advised Officers that he believed he had been given permission to sell alcohol by the Licensing Authority, though could not produce evidence to confirm that to be the case, which heightened West Midlands Police’s concerns that the licensing objectives would not be upheld should a Premises Licence be granted.



LSBC/11

A Sahin confirmed that he had assisted Y Ozdemir with the completion of the application, as he considered that communication and support from the Local Authority had been poor and confirmed that he had previously been the DPS for the former business at the premises, formerly known as Bella Rose. He stated that he had communicated with the Local Authority regarding the transfer of the premises licence, which without his knowledge, had subsequently been surrendered. Therefore, he had been advised by the Local Authority to submit a new premises licence application, together with the required fees and subject to there being no objections, would be eligible to serve alcohol after a period of 28 days. A Sahin had been out of the country at the time of the incident on 12th November, however he had advised Y Ozdemir that he would be eligible to serve alcohol after the 28 days. As there had been no notification from the Local Authority that an objection had been received, they believed that a premises licence had been granted.

Arising from questions raised by A Brookes, relating to how Y Ozdemir had been contacted by West Midlands Police, as he had no recollection of receiving any correspondence in relation to the CCTV and whether it was normal practice for CCTV to be included as part of the licensing conditions for a restaurant, D Jenkins confirmed that an email had been sent to the applicant's email address, which had been checked to ensure it corresponded with the website, Local Authority's Licensing Team and was the same email address as included on the application. It was further stated that to assist with the prevention of crime and disorder licensing objective, it was a normal request for CCTV to be installed on any premises that served alcohol.

In response to a further question raised by the Sub-Committee relating to whether there had been any disorder and incidents reported at the premises, it was confirmed that there had been none to date.

A Sahin then presented the case on behalf on the applicant, and in doing so emphasised that they believed that a premises licence had been granted after the 28-day period and was not aware that an objection had been received until after that date. Whilst they were fully aware that alcohol could not be sold without a licence, it was commented that the business would not be able to continue without the provision to sell alcohol, which would result in closure of the business.

In responding to questions raised by West Midlands Police relating to the sale of alcohol after the premises licence had been surrendered and the reason why Y Ozdemir had not communicated with them with regard to CCTV, A Sahin confirmed that at the time he had not been aware that the premises licence had been surrendered and therefore attempted to transfer the licence in the first instance. It was the Licensing Authority who advised that a new application would be required, which was submitted and advertised as soon as it was brought to their attention. Y Ozdemir confirmed that he had not received any emails from West Midlands Police.



LSBC/12

The Team Manager (Licensing and Waste Enforcement) confirmed that all representations had been served on all parties prior to the hearing, which included a copy of the email from West Midlands Police to Y Ozdemir, therefore there had been an opportunity for engagement before the Sub-Committee.

In responding to a question from the Sub-Committee concerning the transfer of the premises licence, the Team Manager (Licensing and Waste Enforcement) stated that a surrendered licence could be transferred, though only during a grace period of 28-days, for premises to continue to sell alcohol. However, in this case the previous premises licence was surrendered in February 2021, therefore a transfer would not be permitted and a new application would be required to be submitted. The process and timelines for new premises applications were outlined and the Sub-Committee was assured that the process would have been explicitly explained to the applicant at the time.

At this juncture, A Sahin shared copies of the email correspondence received by him from the Licensing Authority with the Sub-Committee. The Principal Solicitor to the Sub-Committee confirmed it was clear from the correspondence that the Licensing Authority had explained that the previous premises licence had been surrendered and could not be transferred and that a new application was required, together with the process to follow outlined. It was considered to be clear from the email correspondence that the premises could not sell alcohol until the licence had been granted.

A Sahin responded to questions raised by all parties and in doing so confirmed that Turkish wine and beer had been served to patrons free with a meal, photos of the bar area with alcohol displayed had been removed from the website and arrangements had been made for CCTV to be installed.

Y Ozdemir responded to questions raised by all parties and in doing so confirmed that he did have experience in working in a restaurant and a cocktail bar, however had no previous experience in running a premises.

Following submissions and questions, all parties 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 for a new premises licence in respect of Anatolia Grill Bar, 41 High Street, Stourbridge, be granted, subject to the conditions as reflected in Section M of the Operating Schedule.

15. **Application to Vary a Premises Licence – The Jolly Crispin, 25 Clarence Street, Upper Gornal, Dudley**

A report of the Acting Director of Public Realm was submitted on an application to vary a premises licence in respect of the premises known as The Jolly Crispin, 25 Clarence Street, Upper Gornal, Dudley.

The following persons were in attendance at the meeting:-

P Jones – The Red Pub Company
J Seaton-Reid – The Red Oak Tavern

The Chair welcomed everyone to the meeting. Following introductions, the Team Manager (Licensing and Waste Enforcement) presented the report on behalf of the Local Authority.

J Seaton-Reid presented the case on behalf of the applicant, and in doing so outlined the purpose for the variation request in that it would provide more flexibility and bring the operating schedule up to date. The concerns raised by objectors were referred to and the measures that would be taken to address the concerns were outlined, which included the erection of a fence to create a private area with no visual access from the car park perimeter, which would also provide a sound barrier; adequate parking was available on-site and appropriate signage would be displayed to encourage patrons to leave the premises quietly, as well as the situation regularly monitored by the management, and all music outputs located in the beer garden area would face towards the premises to reduce noise travel to neighbouring gardens. The parking issues referred to in Roford Court were not considered to be related to the public house, as the level of parking remained the same when the public house was open or closed. The Sub-Committee was advised that the applicant had attempted to contact three of the four residents that had submitted an objection to discuss their concerns, as it was the applicant's wish to enhance the community local pub offer and not create a problem, though no responses had been received.

P Jones responded to questions raised, and in doing so, confirmed that the capacity of the public house was 100 people; that it was not the intention for the premises to become a live music venue or for the premises to open at 8am on a regular basis, though to have the flexibility to open on occasions for special sporting fixtures and events, which could take place at unusual hours. Two live music events had been held to date, in accordance with current licence conditions and no complaints had been received.



LSBC/14

Following discussions, the applicant commented that he would be willing to compromise and prepared for the terminal hour for recorded music, played outside, to be reduced should the Sub-Committee deem it necessary and would also be prepared to accept that all under 18's should be accompanied by an adult and must leave the premises by 9pm.

Following submissions and questions, all parties 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 and presented at the meeting, the application for variation of the premises licence in respect of the premises known as The Jolly Crispin, 25 Clarence Street, Upper Gornal, Dudley, be granted, subject to the amendments to the operating schedule as outlined below:-

Recorded music in outdoor areas to be limited to 7.00pm Monday to Thursday and 8.00pm Friday to Sunday.

That no persons under the age of 18 be allowed on the premises unless accompanied by an adult, and any person under the age of 18 shall leave the premises by 9.00pm at the latest, on any day.

The meeting ended at 1.00pm

CHAIR

Meeting of the Licensing Sub-Committee 3 – 25th October, 2022

Report of the Interim Director of Public Realm.

Application for Grant of a New Premises Licence

Tapri, 404 Himley Road, Gornal Wood, Dudley, West Midlands, DY3 2TS.

Purpose

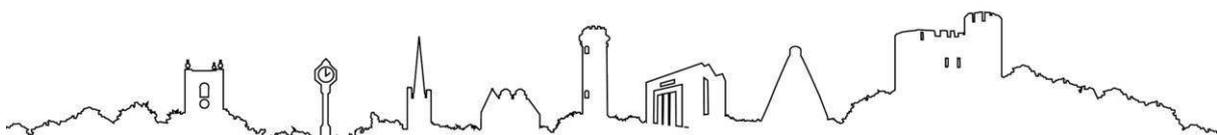
1. To consider the application for the grant of a new premises licence in respect of the premises known as Tapri, 404 Himley Road, Gornal Wood, Dudley, West Midlands.

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 5th September 2022, an application for the grant of a new premises licence was received from John Gaunt & Partners on behalf of Tapri Himley Limited in respect of the premises known as, Tapri, 404 Himley Road, Gornal Wood, 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 Saturday 10.00 until 23.30
Sunday 12.00 until 23.00

Late Night Refreshment

Monday to Saturday 23.00 until 23.30
Sunday 23.00 until 23.00

(when hours for the sale of alcohol are extended hereunder these hours are also extended)

Premises Open to the Public

Monday to Saturday 10.00 until 00.00
Sunday 12.00 until 23.30

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 resident 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 have previously been licensed under the name of the Bulls Head that licence was surrendered in March 2022.

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

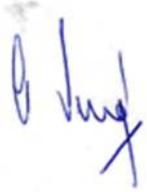
25. There are no commercial/procurement implications.

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 Public Realm

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Appendices

None

List of Background Documents

None