

## **Licensing Sub-Committee 3**

**Tuesday 13<sup>th</sup> January, 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 16<sup>th</sup> October, 2014 as a correct record.
5. Application for a Premises Licence – Valhalla Club, Unit 2, 100 Dock Lane, Dudley
6. Application for the Grant of a Street Collection Permit – Innerspace Concession Management Ltd (Unique Fundraising on behalf of Cats Protection).
7. To consider any questions from Members to the Chair where two clear days notice has been given to the Director of Corporate Resources (Council Procedure Rule 11.8).



**Director of Corporate Resources**

**Dated: 5<sup>th</sup> January, 2015**

#### **Distribution:**

Councillors J Cowell (Chair), A Taylor and E Taylor

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**Minutes of the Special Meeting of Licensing Sub-Committee 3**

**Thursday 16<sup>th</sup> October, 2014 at 10.15 am**  
**in Committee Room 2, The Council House, Dudley**

**Present:-**

Councillor J Cowell (Chair)  
Councillors D Blood and K Finch

**Officers:-**

R Clark (Legal Advisor), L Rouse (Licensing Clerk), B Hughes (Licensing Enforcement Officer) and K Taylor (Democratic Services Officer) – All Directorate of Corporate Resources.

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21      **Declarations of Interest**

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

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22      **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 30<sup>th</sup> September, 2014, be approved as a correct record and signed.

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23      **Notice of Temporary Event – Seven Stars, Brook Road, Oldswinford, Stourbridge**

A report of the Director of Corporate Resources was submitted on the objections received to the Notice of Temporary Event served on the Council by Miss F Witts-Hewinson in respect of The Seven Stars, Brook Road, Oldswinford, Stourbridge.

In attendance at the meeting were Mr T Glews, Environmental Protection Manager, Directorate of the Urban Environment, and PC A Baldwin, Licensing Officer, West Midlands Police.

It was noted that the applicant, Miss F Witts-Hewinson, was not in attendance at the meeting, and reasons for her non-attendance had not been received, despite having been hand delivered a letter dated 8<sup>th</sup> October, 2014.

Following a brief adjournment, during which Mr Hughes attempted to contact Miss Witts-Hewinson, the Sub-Committee being satisfied that appropriate notice had been given, resolved to proceed in the absence of the applicant.

The Licensing Clerk then presented the report on behalf of the Council.

Mr Glews presented the representations of Environmental Health and Safety and in doing so referred to the history of noise complaints made by nearby residents dated back to 2005. He stated that during the period dating July 2007 to November 2009, fifteen different noise related complaints alleging nuisance were submitted, and following a Licensing Sub-Committee meeting a number of conditions were attached to the Premises that were consistent with the Operating Schedule in order to promote the four licensing objectives, in particular, the prevention of public nuisance.

Mr Glews then reported that since 8<sup>th</sup> May, 2014, and Miss Witts-Hewinson's appointment as Designated Premises Supervisor, a number of complaints had been received from three different households in the vicinity of the premises in respect of noise nuisance, in particular of patrons occupying the beer garden and the front car park after the permitted hour of 11.00 pm. Mr Glews referred to an event that had taken place on 24<sup>th</sup> August, 2014, that commenced in the early afternoon and finished just after midnight the following morning, which involved the speakers being used outside the premises. It was noted that the event had taken place after Licensing Officers had undertaken an enforcement visit to the premises two days earlier.

In concluding, Mr Glews recommended that the Sub-Committee refuse the application to extend the licensing hours to 1.00 am due to the difficulty in controlling noise made by regulated entertainment, patrons and vehicles outside the premises in such close proximity to residential accommodation.

PC Baldwin then presented the representations of West Midlands Police and in doing so referred to the number of calls associated to the premises, predominately relating to noise and disorder, in particular to an incident that had taken place on 26<sup>th</sup> September, 2014, involving a large number of people in a disturbance around midnight.

It was noted that PC Baldwin, together with Mr Hughes, had visited the premises and discussed with Miss Witts-Hewinson the premises licence, including the conditions imposed, and her responsibility associated to it. However, since the meeting, there have been at least two breaches of the premises licence that had been documented by Police and Dudley MBC that were currently under investigation and complaints continued to be received.

In responding to a question by a member, it was confirmed that the current licensing hours permitted inside the premises were 1.00 am, and 11.00pm outside.

In responding to a question by a member, Mr Hughes stated that both West Midlands Police and Licensing had concerns in respect of the management of the premises following the number of complaints received, in particular, in relation to the use of the beer garden after 11.00 pm. It was also noted that Miss Witts-Hewinson had not cooperated with Police or Licensing in order to address the concerns and complaints made associated to the premises.

Mr Glews reported that the latest noise complaints were received on 27<sup>th</sup> September, 2014 at 12.45 am and 28<sup>th</sup> September, 2014 at 12.30 am.

The Legal Advisor stated that consideration should be given to the evidence presented and whether it impacted on the Licensing Objectives, in particular, in relation to noise and crime and disorder. He stated that the temporary event notice had been appropriately given, in accordance with statutory time scales, and that although conditions could be placed on the notice, these should relate to the existing conditions imposed on the licence.

Following further discussion 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 the application received for the Notice of Temporary Event served on the Council by Miss F Witts-Hewinson in respect of The Seven Stars, Brook Road, Oldswinford, Stourbridge, be refused.

Reasons for Decision

This is an application for a Temporary Event, made by Miss Francesca Witts-Hewinson, the Premises Licence Holder at the Seven Stars for a Halloween party from 19.00 until 1.00am on the morning of 1<sup>st</sup> November, 2014. The TEN has been appropriately given, in accordance with statutory time scales. Representations have been received from the police and environmental health.

Miss Witts-Hewinson did not attend the Sub-Committee today, despite having been given notice of the hearing by hand delivery on 8<sup>th</sup> October. The Licensing Officer attempted to make contact with her by telephone this morning but both of her telephone contact numbers went to voice mail. She had not attended at the time when the Sub-Committee concluded hearing representation at about 10.50am.

Evidence was heard from Mr Glews from Environmental Health. There has been a history of complaints relating to the premises whilst under previous management, but also complaints since Miss Witts-Hewinson became the Premises Licence Holder in May, 2014. The last noise complaints were on 27<sup>th</sup> September at 12.45am and 28<sup>th</sup> September at 12.30am. Although the premises are licensed until 1.00am the beer garden is only licensed until 11.00pm.

There have been a number of issues on the premises, which have necessitated the police being called, in August and September 2014. Persons have had to be cleared from the outside beer garden after midnight and the police have attended to deal with an alleged assault, substance abuse on the premises and public nuisance issues.

A series of complaints has been received by the Licensing Authority and they have attended with the police and Environmental Health.

The Premises Licence Holder has not contacted any of the Responsible Authorities in order to discuss the presentations and with a view to mediate the concerns. PC Baldwin from the Police have evidence that the Premises Licence Holder has not cooperated with the Police in order to address concerns generally about the premises, and this has made addressing the licensing objectives very difficult indeed.

On the evidence heard today, the Sub-Committee finds that to open the beer garden for the sale of alcohol and recorded music after 11.00pm is likely to cause a public nuisance due to noise. The application is therefore refused.

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The meeting ended at 11.10 am.  
CHAIR

**Licensing Sub-Committee 3 – 13<sup>th</sup> January 2015**

**Report of the Director of Corporate Resources**

**Application for a Premises Licence – Valhalla Club**

**Purpose of Report**

1. To consider the application for the grant of a premises licence in respect of the Valhalla Club, Unit 2, 100 Dock Lane, Dudley, DY1 1SN.

**Background**

2. On the 14<sup>th</sup> November 2014 an application for the grant of a new premises licence was received from Ms Jennifer Hutchinson in respect of the premises known as Valhalla Club, Unit 2, 100, Dock Lane, Dudley, DY1 1SN. 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 £100.00
  - Consent of proposed premises supervisor
4. The application for a premises licence is as follows:

**Sale of Alcohol**

Monday – Thursday inc.	12.00 – 23.30
Friday & Saturday	12.00 - 02.30
Sunday	12.00 – 22.30

**Regulated Entertainment (Films/Live Music/Recorded Music/Dance)**

Monday – Thursday inc.	12.00 – 24.00
Friday & Saturday	12.00 - 03.00
Sunday	12.00 – 23.00

Halloween (31<sup>st</sup> October) Until 04.00  
Valentines (14<sup>th</sup> February) Until 04.00

Christmas Eve & New Years Eve Until 04.00

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 local residents in the form of a petition, 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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DIRECTOR OF CORPORATE RESOURCES

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**List of Background Papers**

**Licensing Sub-Committee 3 – 13<sup>th</sup> January 2015**

**Report of the Director of Corporate Resources**

**Application for the Grant of a Street Collection Permit**

**Innerspace Concession Management Ltd**  
**(Unique Fundraising on behalf of Cats Protection)**

**Purpose of Report**

1. To consider the application for the grant of a Street Collection Permit made by Mr David Wylie of Inner Space Concession Management Ltd on behalf of Unique Fundraising for the benefit of the charity known as Cats Protection.

**Background**

2. Over the past 2 or 3 years a number of charities have conducted their charitable collections by way of face to face fundraising, which usually relates to the collection of direct debits/standing orders from shoppers/pedestrians.
3. Professional fundraising companies normally conduct these collections on behalf of charities from whom, they receive payment.
4. The Licensing Section has over the years received complaints from members of the public, Town Centre Manager and the Deputy Leader of the Council in relation to the manner in which these collections have been conducted.
5. There had been some confusion as to whether these companies require a street collection permit to undertake this kind of collection or whether they were only required to inform the Council when the collection takes place.
6. The Licensing Officer therefore undertook a review of the Licensing Policy in respect of applications for the grant of street collections. This matter was considered by the Licensing and Safety Committee on the 21<sup>st</sup> September 2011. The Committee resolved that street collection permits would be required and that any application for the grant of a street collection by the method of face to face fundraising/direct debits should be referred to the Licensing & Safety Sub-Committee for determination.
7. On the 24<sup>th</sup> October 2014, Mr David Wylie of Inner Space Concession Management Ltd on behalf Unique Fundraising made application for the grant of a Street Collection Permit in respect of the charity known as Cats Protection.

Copies of the application along with the relevant accounts have been forwarded to Committee Members and interested parties.

8. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all street collection permit applicants to submit income and expenditure accounts for the previous financial year.
9. In recent years, applications for street collections have been received from independent commercial companies undertaking collections on behalf of specific charities. Therefore, in November 2009, the Council introduced a further policy that all applicants for street collection permits be required to submit with the application, income and expenditure accounts for the previous financial year of the charity for which the collection is being made and also for the company or organisation making the collection. This is to ensure that a substantial amount of the monies collected are used for charitable purposes.
10. A copy of the accounts submitted have been forward to Committee members and interested parties.
11. Copies of the application have been circulated to the West Midlands Police and the Director of the Urban Environment (Highways) and no objections were received from either of the agencies.
12. This application falls within the Council's recent responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

### **Finance**

13. There are no financial implications.

### **Law**


14. Street collection permits are governed by the Police, Factories etc (Miscellaneous Provisions) Act 1916.
15. Under this Act the Council has made regulations for street collections.
16. The Council has unfettered discretion to the granting of street collection permits and there are no statutory rights of appeal against the refusal of a street collection permit.

### **Equality Impact**

17. This report takes into account the Council's policy on equal opportunities.
18. There has been no consultation or involvement of children and young people in developing these proposals.

## **Recommendation**

19. That the Committee consider the application for the grant of a street collection permit in respect of Innerspace Concession Management Ltd.



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DIRECTOR OF CORPORATE RESOURCES

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## **List of Background Papers**