

Licensing Sub-Committee 1 – 9th December 2014

Report of the Director of Corporate Resources

Application for Expedited Licence Review

Purpose of Report

1. To consider the application for expedited licence review in respect of the Premises Licence for Pulse, 17, Dudley Road, Brierley Hill, DY5 1HA.

Background

2. Pulse, 17 Dudley Road, Brierley Hill, DY5 1HA, was first issued with a premises licence on the 8th July 2011, that licence was subsequently transferred on the 26th February 2013, the current licence is issued as follows:

Sale of Alcohol & Regulated Entertainment

Monday to Sunday 08.00 until 06.00

Late Night Refreshment

23.00 until 06.00

3. The current premises licence holder is Mr Steve Simpson.
4. On the 13th November 2014, the West Midlands Police made application for the expedited licence review of the premises licence in respect of Pulse, 17, Dudley Road, Brierley Hill, West Midlands. A copy of that application has been served on the premises licence holder, Committee Members and interested parties, in accordance with the Licensing Act 2003.
5. 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.
6. Following receipt of the application on the 14th November 2014, the Licensing Sub-Committee held an interim review hearing to consider whether it was necessary to take interim steps pending the determination of the review of premises licence. The Committee resolved that the premises licence be suspended until the review hearing on the 9th December 2014.

7. On the 17th November 2014, Mr Simpson submitted written representations against the interim steps taken by the Licensing Sub-Committee, therefore a further hearing was arranged for the 19th November 2014, to consider the representation put forward by Mr Simpson. The Licensing Sub-Committee resolved on the 19th November 2014, that the suspension of the premises licence should stand.
8. On the 26th November 2014, representations were received from the Office of Public Health, a copy of those representations have been sent to the premises licence holder, interested parties and Committee Members.
9. On the 27th November 2014, representations were also received from the Assistant Director, Law & Governance, a copy of those representations have also been sent to the premises licence holder, interested parties and Committee Members.
10. This application falls within the Council's responsibility for liquor licensing, which has a direct link to the Council's key corporate priority that safety matters.

Finance

11. There are no financial implications.

Law

12. The law relating to the review of the premises licence (premises associated with serious crime or disorder) is governed by the Licensing Act 2003 Section 53A.
13. Within 48 hours of the time of receipt of application and certificate the Licensing Authority must consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence.
14. The steps are: -
 - (a) the modification of conditions of the premises licence
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence.
 - (c) the removal of the designated premises supervisor from the licence
 - (d) the suspension of the licence
15. Where on its consideration the Licensing Authority does take one or more of these steps:

- (a) The decision takes effect immediately or as soon after as the Licensing Authority directs.
 - (b) It must give immediate notice of its decision and of its reasons for making it to:-
 - (i) The holder of the licence and
 - (ii) the chief Officer of Police
16. If the holder of the premises licence makes and does not withdraw representations against the interim steps taken by the Licensing Authority, the Authority must within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
17. The Licensing Authority must give advance notice of the hearing to the
- (a) The holder of the premises licence
 - (b) The Chief Officer of Police
18. At the hearing the Licensing Authority must
- (a) consider whether the interim steps are necessary for the promotion of the licensing objectives: and
 - (b) Determine whether to withdraw or modify the steps taken
19. In considering those matters the licensing authority must have regard to
- (a) the certificate that accompanied the application
 - (b) any representations made by the Chief Officer of Police
 - (c) any representations made by the holder of the premises licence.
- Hold a full Review within 28 Days of receipt of application
20. 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

21. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
22. 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.
23. 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.

24. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
25. 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.
26. 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).
27. 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.

28. 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.
29. 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.
30. 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
31. 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

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

Recommendation

35. That the Sub-Committee consider the application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

none