

# LICENSING SUB-COMMITTEE 4

TUESDAY 26<sup>th</sup> FEBRUARY, 2013

AT 10.00 AM  
COUNCIL CHAMBER  
COUNCIL HOUSE  
PRIORY ROAD  
DUDLEY

If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you

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Dudley  
Metropolitan Borough Council

## **IMPORTANT NOTICE**

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Please turn off your mobile phones and mobile communication devices during the meeting.

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Your ref:

Our ref:  
KT

Please ask for:  
Karen Taylor

Telephone No.  
01384 818116

14<sup>th</sup> February, 2013

Dear Member

**Meeting of Licensing Sub-Committee 4 – Tuesday 26<sup>th</sup> February, 2013**

You are requested to attend a meeting of Licensing Sub-Committee 4 to be held on Tuesday 26<sup>th</sup> February, 2013 at 10.00 am in the Council Chamber at the Council House, Priory Road, Dudley, West Midlands, DY1 1HF to consider the business set out in the Agenda below.

The agenda and reports for this meeting can be viewed on the Council's internet site [www.dudley.gov.uk](http://www.dudley.gov.uk) and follow the links to Meetings and Decisions.

Yours sincerely



Director of Corporate Resources

**A G E N D A**

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitutes for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive declarations of interest in accordance with the Members' code of conduct.

4. MINUTES

To approve as a correct record and sign the minutes of the meeting held on 22<sup>nd</sup> January, 2013 (copy attached).

5. APPLICATION FOR REVIEW OF PREMISES LICENCE – SHELL CORNER OFF LICENCE AND NEWSAGENTS, 307-308 LONG LANE, HALESOWEN (PAGES 1 – 5)

To consider a report of the Director of Corporate Resources.

6. APPLICATION FOR REVIEW OF PREMISES LICENCE – SPAR, 115A BRETTELL LANE, AMBLECOTE, STOURBRIDGE (PAGES 6 - 10)

To consider a report of the Director of Corporate Resources.

7. VARIATION OF DESIGNATED PREMISES SUPERVISOR – HARE AND HOUNDS, WYNALL LANE, STOURBRIDGE (PAGES 11 – 13)

To consider a report of the Director of Corporate Resources.

8. TO ANSWER QUESTIONS UNDER COUNCIL PROCEDURE RULE 11.8 (IF ANY).

**Distribution**

Councillors: Roberts (Chair)

Taylor

## LICENSING SUB-COMMITTEE 4

Tuesday 22<sup>nd</sup> January, 2013 at 10.15 am  
in the Council Chamber, The Council House, Dudley

### PRESENT:-

Councillor Roberts (Chair)  
Councillors Perks and Taylor

### Officers: -

Mr R Clark (Legal Advisor), Mrs L Rouse (Licensing Clerk), Mrs K Taylor and Miss L Mason (Observer) – All Directorate of Corporate Resources.

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34            DECLARATIONS OF INTEREST

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

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35            MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 6<sup>th</sup> November, 2012, be approved as a correct record and signed.

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36            APPLICATION FOR REVIEW OF PREMISES LICENCE – SELECT AND SAVE, WOODS LANE, QUARRY BANK

A report of the Director of the Corporate Resources was submitted on an application for the review of the premises licence in respect of Select and Save, Woods Lane, Quarry Bank.

Mr S Logeswaran, Designated Premises Supervisor was in attendance at the meeting, together with his representative, Mr D Carr.

Also in attendance were Mr C King, Principal Trading Standards Officer and Mrs L Ingram, Enforcement Officer, both from the Directorate of the Urban Environment, PC A Taylor from West Midlands Police and a member of the press.

Following introductions by the Chair, the Licensing Clerk presented the report on behalf of the Council.

Mr King presented the representations of Trading Standards and in doing so highlighted that the grounds for the review had been based on the serious undermining of the two licensing objectives, namely, the prevention of crime and disorder and the protection of children from harm due to the poor management of the premises with respect to the sale of alcohol to children.

Mr King informed the Sub-Committee that on 26<sup>th</sup> October, 2012, a fifteen year old child test purchaser had been sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

It was noted that a test purchase exercise had been undertaken at the premises on 12<sup>th</sup> February, 2007, resulting in alcohol being sold to children. On that occasion, Mr Logeswaran stated that he was the owner of the premises but not the designated premises supervisor; therefore Mr Logeswaran was issued with a warning letter.

It was further noted that test purchase exercises had also been carried out in August, 2011, December 2011 and March 2012, which all resulted in a refusal of sale.

Mr King further stated that on 26<sup>th</sup> October, 2012, Trading Standards together with West Midlands Police, carried out a test purchasing exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a fifteen year old male test purchaser volunteer purchased a bottle of WKD Blue Vodka with 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer, and did not ask for identification.

Following the sale, and having returned to the premises, it was discovered that the individual who sold the alcohol to the test purchaser had been a Ms J Williams. When questioned Ms Williams stated that it was her first day back, from a six-month absence, and that her 'eyes were not too good', she was then issued with a Fixed Penalty Notice.

On inspection of the premises, it was noted that the Refusals Register had been used and "Challenge 25" and proxy sales posters were displayed at the premises.

Mr King informed the Sub-Committee that the Fixed Penalty Notice issued to Ms Williams had not been paid.

It was further noted that on 26<sup>th</sup> October, 2012, Trading Standards carried out nine test purchasing exercises together with the same volunteer, and that the premises were the only one which had resulted in a sale of alcohol.

A full list of proposed additional conditions, which had been suggested by Trading Standards, had been circulated to all parties prior to the meeting.

PC Taylor then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had carried out regular patrols in the vicinity and had not received any feedback from the public or local businesses to indicate any problems with the premises such as anti-social behaviour or incidents of crime.

Mr Carr then presented the case on behalf of Mr Logeswaran, and in doing so stated that Mr Logeswaran and his members of staff actively promoted the licensing objectives, and that there had been a number of successful test purchase exercises carried out at the premises.

Mr Carr further stated that Ms Williams had received minimal training, and that she was no longer employed at the premises.

It was noted that Mr Logeswaran had recently undertaken a Level Three Designated Premises Supervisors course, and that a member of his staff had successfully completed the Level Two Award. Mr Carr informed the Sub-Committee that it was the intention of Mr Logeswaran to provide training to ensure that all members of staff completed a level one award.

Mr Carr then presented a document to the Sub-Committee outlining the training that had been given to employees.

In responding to a question by Mr King in relation to Mr Logeswaran not being contactable away from the premises, Mr Logeswaran stated that he would be agreeable to allow his contact details to be displayed at the premises to ensure that he was contactable at all times.

In responding to a question by a member, Mr Carr stated that the training provided to members of staff was undertaken via an interactive online course or an instructor led course which were carried out by various teachers in different languages.

Mr Logeswaran also informed the Sub-Committee that when an age restricted product had been scanned in to the register, a reminder message was displayed to prompt the member of staff to ask for identification.

Reference was made to the proposed additional conditions that had been submitted by Trading Standards and West Midlands Police, where Mr Carr confirmed that Mr Logeswaran was in agreement with the proposals, however he did consider that the condition requesting Mr Logeswaran to undertake monthly training reviews were too rigorous and asked for them to be extended to a six monthly period.

Reference was made to the condition that requested that a file be maintained at the premises for each person authorised to sell alcohol; Mr Carr confirmed that his colleague, a Ms J Taylor, was currently preparing all the necessary paperwork to ensure that Mr Logeswaran correctly adhered to all the conditions should they be attached to the licence. He further stated that Mr Logeswaran understood the consequences should he breach any condition of his licence.

In responding to a question by the Legal Advisor, Mr Carr informed the Sub-Committee that Ms Williams had been an employee for a period of twelve months on a part time basis, and that she had received verbal training by Mr Logeswaran, and on her return following a six month leave of absence, she did not receive any refresher training.

Mr Carr assured the Sub-Committee that the incident would not occur again, and any future test purchasing exercises would result in a refusal of sale.

Reference was made to Mr Carr's statement requesting that monthly training reviews be extended to a longer period of time; Mr King requested that the condition remain at monthly reviews in view of any staff changes that may occur in the future.

Reference was made to the training document submitted to the Sub-Committee, Mr King stated that there appeared to be a lot of emphasis on areas such as fake identification badges, and advised that if the seller had any doubts in respect of the identification presented, then to refuse the sale.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

Following all comments, the Legal Advisor stated that the Sub-Committee would determine the application made on the information submitted and comments made at the meeting by all parties, and that any decision made must be reasonable and proportionate.

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, subject to the following conditions being applied to the premises licence, no further action to be taken in relation to the review of the premises licence in respect of Select and Save, Woods Lane, Quarry Bank : -



## Conditions

- (1) A written Proof of Age Policy is to be put in force, which all staff authorised to sell alcohol will be trained in and adhere to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age standards Scheme (PASS) proof of age card such as Citizen card. No other form of identification shall be accepted.
- (2) A Register of Refusals of Sale of Alcohol which indicates the date, time and reason for refusal will be operated and maintained at the premises. The Premises Licence Holder shall check the book once a week ensuring it is completed and up-to-date. The Premises Licence Holder will sign the book each time it is checked. This book shall be made available for inspection by an officer of any responsible authority.
- (3) CCTV to be in place at the premises to the specifications of the West Midlands Police – Crime Reduction Officer so that the alcohol display area and the point of sale area can be viewed. All images are to be recorded and kept for a minimum of 28 days and made immediately available to any responsible authority upon request.
- (4) The Premises' CCTV shall be reviewed on a weekly basis in order to identify persons under the age of 18 who are attempting to buy alcohol or persons over the age of 18 buying on their behalf. A record of these checks shall be maintained and be available for inspection upon request by an officer of any responsible authority.
- (5) CCTV to be recording at all times the premises are open for any licensable activity and the Hard Drive to be locked but readily accessible to staff (i.e. not in a roof space). All staff to be fully trained and able to operate and download CCTV.
- (6) No supply of alcohol may be made under the premises licence at a time when the Designated Premises Supervisor does not hold the Level 2 Award for Designated Premises Supervisors. Proof of qualification shall be provided to the Police and/or officer of any responsible authority.
- (7) All persons engaged to sell alcohol will have completed a training programme – to a minimum of level one, which includes a written test to verify the competency of that person prior to them being authorised to sell alcohol. A record of this training will be recorded in writing.

- (8) The premises licence holder shall ensure that monthly reviews are conducted with any persons authorised to sell alcohol in order to reinforce training, promote best practice and policy. These monthly reviews will be recorded in writing.
- (9) A file shall be maintained at the premises for each person authorised to sell alcohol. This file shall contain all training records for each person along with copies of monthly reviews as stated in point 8. This file shall be made available for inspection by any officer from a responsible authority upon request.
- (10) A Challenge 25 Policy shall be strictly adhered to.

### REASONS FOR DECISION

The Sub-Committee has heard an application for a review of the premises licence for Select and Save. The review has been brought on the basis of the sale of alcohol to an underage male on 26<sup>th</sup> October, 2012.

The Licence Holder and Designated Premises Supervisor has accepted the conditions proposed by Trading Standards and the Police, and has given evidence that new training for all staff will be put in place, and he has undertaken updated training himself to Designated Premises Supervisors Level Three the previous week. The Sub-Committee is very concerned about the circumstances of this underage sale, but finds that the imposition of the conditions proposed should address the concerns about training for all staff, and finds that the imposition of these conditions is proportionate to the nature of the failed test purchase, and should remedy these concerns.

The conditions have been amended to avoid duplication.

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The meeting ended at 11.25 am

CHAIR

**Licensing Sub-Committee 4 – 26<sup>th</sup> February 2013**

**Report of the Director of Corporate Resources**

**Application for Review of a Premises Licence**

**Purpose of Report**

1. To consider the application for the review of the premises licence in respect of Shell Corner Off Licence & Newsagents, 307-308 Long Lane, Halesowen, B62 9LB.

**Background**

2. Shell Corner Off Licence & Newsagents was first issued with a premises licence on the 20th June 2008.
3. The current premises licence is issued for the following:-

Sale of Alcohol	Monday to Sundays	07.00 – 23.00
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4. On the 3rd January 2013, an application for the review of the premises licence was received from the Trading Regulation and Enforcement Manager. A copy of that application has been circulated to 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. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
7. The current premises licence holder is Mr S S Balaghan and Mrs S Balaghan.
8. On the 28<sup>th</sup> January 2013 the West Midlands Police made representations which have been forwarded to Committee members and interested parties in accordance with the Licensing Act 2003.
9. 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**

10. There are no financial implications.

## **Law**

11. The law relating to the review of licences is governed by the Licensing Act 2003 Section 52(1).

Determination of application for review

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
12. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
  13. 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.
  14. 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.

15. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
16. 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,

17. 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).
18. 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.
19. 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.
20. 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.
21. 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
22. Pursuant to schedule 5 part 1, section 8(2)
23. 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**

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

## **Recommendation**

27. That the Sub-Committee determine the review of the premises licence in respect of Shell Corner Off Licence & Newsagents, 307-308 Long Lane, Halesowen, West Midlands.



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DIRECTOR OF CORPORATE RESOURCES

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## **List of Background Papers**

## DUDLEY METROPOLITAN BOROUGH COUNCIL

[www.dudley.gov.uk](http://www.dudley.gov.uk)REVIEW OF PREMISES LICENCE  
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to Shell Corner Off Licence & Newsagents, 307 – 308 Long Lane, Halesowen, B62 9LB.

Interested parties and relevant authorities may make representations in writing to the Licensing Officer, Law and Governance, 5 Ednam Road, Dudley, West Midlands, DY1 1HL between 4<sup>th</sup> January 2013 and 31st January 2013.

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

- Prevention of crime and disorder
- Protection of children from harm

The details of the grounds for review may be inspected at the Licensing Offices (address as above) between the hours of 9.00 am and 4.30pm (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

The logo for Dudley Metropolitan Borough Council, featuring the word "Dudley" in a large, bold, sans-serif font, with "Metropolitan Borough Council" in a smaller font underneath. A curved line arches over the word "Dudley".

*Surjit Upadavey*  
*27.1.13*

**Licensing Sub-Committee 4 – 26<sup>th</sup> February 2013**

**Report of the Director of Corporate Resources**

**Application for Review of a Premises Licence**

**Purpose of Report**

1. To consider the application for the review of the premises licence in respect of Spar, 115A Brettell Lane, Amblecote, Stourbridge, West Midlands, DY8 4BS.

**Background**

2. Spar, 115A Brettell Lane, Amblecote was first issued with a premises licence on the 19<sup>th</sup> September 2005.
3. The current premises licence is issued for the following:-

Sale of Alcohol	Monday to Saturday	08.00 – 23.00
	Sundays	10.00 – 22.30
	Good Friday	08.00 – 22.30
	Christmas Day	12.00 – 15.00
	Christmas Day	19.00 – 22.30
4. On the 14<sup>th</sup> January 2013, an application for the review of the premises licence was received from the Trading Regulation and Enforcement Manager. A copy of that application has been circulated to 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. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
7. The current premises licence holder is Mr T E Jacques.
8. On the 23<sup>rd</sup> January 2013, the West Midlands Police made representations. A copy of that report has been forwarded to Committee members and interested parties.



9. On the 6<sup>th</sup> February 2013, Dudley Public Health made representations, which have been forwarded to the applicant, the premises licence holder and the Committee members in accordance with the Licensing Act 2003.
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 licences is governed by the Licensing Act 2003 Section 52(1).

Determination of application for review

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
13. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
  14. 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.
  15. 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.

16. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
17. 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,
18. 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).
19. 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.
20. 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.
21. 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.
22. 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
23. Pursuant to schedule 5 part 1, section 8(2)
24. 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**

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

### **Recommendation**

- 28. That the Sub-Committee determine the review of the premises licence in respect of Spa, 115A Brettell Lane, Amblecote, Stourbridge, West Midlands.



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DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs. L Rouse  
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### **List of Background Papers**

## DUDLEY METROPOLITAN BOROUGH COUNCIL

[www.dudley.gov.uk](http://www.dudley.gov.uk)

REVIEW OF PREMISES LICENCE  
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to Spar 115A,  
Brettell Lane, Amblecote, Stourbridge, DY8 4BS.

Interested parties and relevant authorities may make representations in writing to the Licensing Office, Law and Governance, 5 Ednam Road, Dudley, West Midlands, DY1 1HL between 15th January 2013 and 11th February 2013.

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

- Prevention of crime and disorder
- Protection of children from harm

The details of the grounds for review may be inspected at the Licensing Offices (address as above) between the hours of 9.00 am and 4.30pm (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

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**Licensing Sub-Committee 4 - 26th February 2013**

**Report of the Director of Corporate Resources**

**Variation of Designated Premises Supervisor**

**Purpose of Report**

- 1 To consider the application for variation of designated premises supervisor in respect of Hare & Hounds, Wynall Lane, Stourbridge, West Midlands.

**Background**

2. The Hare and Hounds was first issued with a premises licence on the the 26<sup>th</sup> October 2005, that licence has subsequently been transfer on the 17<sup>th</sup> July 2006, 1<sup>st</sup> July 2007 and the 10<sup>th</sup> June 2010.

3. The current premises licence is issued for the following:

Sale of Alcohol (Regulated Entertainment)

Monday to Saturday	10.00 – 00.00
Sundays	11.00 – 00.00
New Years Eve	10.00 to New Years Day terminal hour as proposed

Late Night Refreshment

Monday to Sunday	23.00 – 00.00
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4. On the 28<sup>th</sup> January 2013, an application was received from Marston's plc to vary the premises licence to specify an individual as a Designated Premises Supervisor. A copy of that application has been circulated to Committee Members and Interested Parties in accordance with the Licensing Act 2003.
5. Confirmation that the applications has been served on the relevant authorities has been received.
6. On the 8<sup>th</sup> February 2013, the West Midlands Police raised objections to the application, a copy of that report has been forwarded to Committee Members and Interested parties in accordance with the Licensing Act 2003.
7. The current premises licence holder is Marstons plc.

8. 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**

9. There are no financial implications.

### **Law**

10. The law relating to the granting of applications to vary a licence to specify individual as premises supervisor is governed by the Licensing Act 2003, part 3, section 37.
11. Pursuant to part 3, section 37(5) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
12. Pursuant to part 3, section 37(6) the Chief Officer of Police must give that notice within the period of 14 days beginning with the day he is notified of the application.
13. Pursuant to section 39(3), the Licensing Authority must:-
  - (a) hold a hearing to consider it, unless the authority, the applicant, and the Chief Officer of the Police who gave notice agree that a hearing is unnecessary, and
  - (b) having regard to the notice reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
14. Pursuant to regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005), the Licensing Authority must make its determination at the conclusion of the hearing.
15. Where an application under section 37 is granted or rejected pursuant to section 39(4), the Licensing Authority must give a notice to that effect to:-
  - (a) the applicant
  - (b) the proposed individual, and
  - (c) the Chief Officer of Police for police area in which the premises are situated.
16. Pursuant to section 39(5) the notice must state the authorities reasons for granting or rejecting the application.

17. Pursuant to section 39(6) where the application is granted, the notice must specify the time when the variation takes effect.
18. Pursuant to schedule 5, part 1 1(c) if the Licensing Committee refuse to grant the application to vary a licence to specify individual as premises supervisor there is a right of appeal to the Magistrate's Court.
19. Pursuant to schedule 5, part 1 5(1) and (2) if the licensing Committee grants the application to vary a licence to specify individual as premises supervisor in a case where the Chief Officer of the Police gave notice under section 37(5) the Chief Officer of the Police may appeal against the decision to grant the application.

### **Equality Impact**

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

### **Recommendation**

23. That the Sub-Committee consider the application.



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DIRECTOR OF CORPORATE RESOURCES

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### **List of Background Papers**