

LICENSING SUB-COMMITTEE 4

TUESDAY 4th MARCH, 2014

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

KAREN TAYLOR
DEMOCRATIC SERVICES OFFICER
Internal Ext – 8116
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www.dudley.gov.uk


Dudley
Metropolitan Borough Council

IMPORTANT NOTICE

MEETINGS IN DUDLEY COUNCIL HOUSE

Welcome to Dudley Council House

In the event of the alarm sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.

There is to be no smoking on the premises in line with national legislation. It is an offence to smoke in or on these premises.

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

Thank you for your co-operation.

Your ref:

Our ref:
KT

Please ask for:
Karen Taylor

Telephone No.
01384 818116

19th February, 2014

Dear Member

Meeting of Licensing Sub-Committee 4 – Tuesday 4th March, 2014

You are requested to attend a meeting of Licensing Sub-Committee 4 to be held on Tuesday 4th March, 2014 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 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 10th December, 2013 (copy attached).

5. APPLICATION FOR A LICENSED PREMISES GAMING MACHINE PERMIT – THE WHITE HORSE, 12 DUDLEY STREET, SEDGLEY, DUDLEY (PAGES 1 – 4)

To consider a report of the Director of Corporate Resources.

6. APPLICATION FOR REVIEW OF PREMISES LICENCE – HARRY’S, 19 BRADFORD ROAD, DUDLEY (PAGES 5 - 9)

To consider a report of the Director of Corporate Resources.

7. APPLICATION FOR REVIEW OF PREMISES LICENCE – YEW TREE STORES, YEW TREE HILLS, NETHERTON, DUDLEY (PAGES 10 – 14)

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) Perks Woodall

LICENSING SUB-COMMITTEE 4

Tuesday 10th December, 2013 at 10.05 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Roberts (Chair)
Councillors Perks and Sykes

Officers: -

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

13 APOLOGY FOR ABSENCE

An apology for absence from the meeting was received on behalf of Councillor Woodall.

14 APPOINTMENT OF SUBSTITUTE MEMBER

It was reported that Councillor Sykes had been appointed as a substitute Member for Councillor Woodall for this meeting of the Sub-Committee only.

15 DECLARATIONS OF INTEREST

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

16 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 27th August, 2013, be approved as a correct record and signed.

17 APPLICATION FOR REVIEW OF PREMISES LICENCE – HIGH STREET EXTRAS (PREMIER), 79 HIGH STREET, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of High Street Extras (Premier), 79 High Street, Dudley.

Mr V Kalaichelvan, Designated Premises Supervisor, was in attendance at the meeting together with his representative, and supporter.

Also in attendance were Mr C King, Principal Trading Standards Officer, the Directorate of the Urban Environment, Ms D McNulty, Office of Public Health; and K Turley, Licensing Officer from West Midlands Police.

Following introductions, it was noted that Mr V Kalaichelvan was the Designated Premises Supervisor, and that his wife Mrs U Kalaichelvan was the Premises Licence Holder, who was not in attendance at the meeting due to health problems.

It was further noted that Mrs Kalaichelvan had consented for Mr Kalaichelvan to represent her at the hearing, and that there had been confusion as all documentation relating to the review had been in respect of Mr Kalaichelvan.

Further to comments made, the Licensing Clerk informed the Sub-Committee that all documentation sent had been addressed to Mrs U Kalaichelvan, however it was accepted by the Sub-Committee that there were minor discrepancies in the documentation submitted.

Following a brief discussion it was

RESOLVED

That consideration of the application made for the review of the premises licence in respect of High Street Extras (Premier), 79 High Street, Dudley be adjourned to a future meeting.

The Sub-Committee requested that both Mr and Mrs Kalaichelvan attend the re-convened hearing.

A report of the Director of the Corporate Resources was submitted on an application made by Mr M Geraghty for the grant of consent to engage in street trading to sell meat between the hours of 8.00 am and 4.00 pm, Thursday to Saturday inclusive in Halesowen Town Centre.

Mr M Geraghty, Applicant, together with his partner, Miss M Moore, was in attendance at the meeting.

Also in attendance was Mr M Hanson, Enforcement Officer, Directorate of Corporate Resources.

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

It was noted that the Cornbow Shopping Centre, Chamber of Trade and Fine Fresh Foods had made representations in relation to the application that had been circulated to the applicant, members of the Sub-Committee and interested parties.

Mr Hanson informed the Sub-Committee that he had attended the location with Mr Geraghty, and circulated photographs highlighting the three proposed sites suggested by Mr Geraghty. It was noted that option three, namely, Hagley Street, Halesowen, would be sufficient to accommodate Mr Geraghty's vehicle.

In responding to a question by the Legal Advisor; Miss Moore stated that there had been no meetings or communications between the parties that submitted objections; however they did contact Bescott Promotions, who operated the Farmer's Market, who confirmed that they had no objection to the application.

Reference was made to an inspection report, dated April 2012, that highlighted a number of recommendations to the business. Miss Moore confirmed that all recommendations had been implemented and had since been awarded a rating of four out of five for hygiene.

In responding to a question by a Member, Miss Moore stated that they had applied for a consent in Halesowen, following a recent move to the Halesowen area and would therefore reduce diesel costs and enable Mr Geraghty to be local to home. She informed the Sub-Committee that it would not be possible to purchase a shop in the town centre due to lack of capital, however this could be addressed in the future.

In responding to a question by a member, Miss Moore stated that should the application be granted, the business would not trade until after the Christmas period, and that there would be cover available should Mr Geraghty be unable to work.

Further to comments made by Mr Hanson in relation to the three proposed locations; Miss Moore stated that they were flexible and would be happy with any site, should the Sub-Committee be minded to approve the application.

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

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 Chairman outlined the decision.

RESOLVED

That the application made by Mr Geraghty for the grant of consent to engage in street trading at a site in Halesowen Town Centre, be refused.

REASONS FOR DECISION

The Sub-Committee has heard the application by Mr Geraghty and Ms Moore, for a traders consent, to sell meat, in Halesowen Town Centre.

The Cornbow Shopping Centre, the Halesowen Chamber of Trade and Fine Fresh Foods have made representations, opposing the grant of the consent. Primarily, their opposition is based upon the fact that there are two independent sellers of meat, as well as supermarkets in Halesowen already, and that these premises have high overheads.

Mr Hanson, Enforcement Officer, has visited the three proposed sites, and stated that the first choice would clash with the fortnightly Saturday market, and that the second choice is a narrow space. The third choice location is a longer space.

The Sub-Committee has considered the interests of shoppers and traders in Halesowen, and the availability of meat in the town, and does not think that a further outlet for meat is required, or in the interests of the town. The application is therefore refused.

The meeting ended at 11.40 am

CHAIR

Licensing Sub-Committee 4 – 4th March 2014

Report of the Director of Corporate Resources

Application for a Licensed Premises Gaming Machine Permit

Purpose of Report

1. To consider the application for the grant of a Licensed Premises Gaming machine permit for 3 machines in respect of The White Horse, 12 Dudley Street, Sedgley, Dudley, West Midlands.

Background

2. The White Horse holds a current premises licence for the following:-

Sale of Alcohol & Regulated Entertainment

Monday to Sunday 09.00 – 00.00

Late Night Refreshment

Monday – Sunday 23.00 – 00.00

3. The Local Authority licensing policy states as follows:-

- If authorisation is sought for more than two category C or D machines the applicant will be required to attend a hearing to support the application. All plans submitted with applications for premises licences must set out the siting of each Category C or D machine.
- Parliament has placed no restrictions on the age at which such machines may be played (other than those in amusements arcades). It is, therefore, a matter for the discretion of the premises licence holder and any adults accompanying the children concerned whether they are entitled to play such machines. In the case of premises used exclusively or primarily for the consumption of alcohol, all children under the age of 16 will only be permitted entry to the premises if accompanied by adults. All such machines must be sited in accordance with the Gaming Act, further advice will be given on receipt of application.

- There is unlikely to be the need for a hearing where the application is for renewal of the existing permit for more than two machines or where the application is for the grant of a Licensed Premises Gaming Machine Permit at premises which already have an existing permit for more than two machines, and where that number is not increased.
4. On the 14th January, 2014, an application was received from Amber Taverns Ltd, in respect of the White Horse, together with a site plan for the grant of a Licensed Premises Gaming Machine Permit for 3 category C machines.
 5. The current licence holder of the premises licence is Amber Taverns Ltd. The premises currently holds a notification of intention to offer up to 2 gaming machines.
 6. 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

7. There are no financial implications.

Law

8. Pursuant to schedule 13, section 283 of the Gaming Act 2005 the Council can grant a licensed premises gaming machine permits.
9. Pursuant to schedule 13, section 283 4 (2) on considering an application for a permit the Licensing Authority shall:-
 - (a) grant an application
 - (b) refuse the application, or
 - (c) grant it in respect of:-
 - (i) a smaller number of machines than that specified in the application,
 - (ii) a different category of machines from that specified in the application,or
 - (iii) both
10. Pursuant to schedule 13, section 283 5
 - (1) A Licensing Authority may not attach conditions to a permit
 - (2) As soon as is reasonably practicable after granting an application a Licensing Authority shall issue a permit to the applicant.

11. Pursuant to schedule 13, section 283 5(3) as soon as it reasonably practicable after refusing an application a Licensing Authority shall notify the applicant of:-
 - (a) the refusal, and
 - (b) the reasons for it
12. In pursuance of schedule 13, section 283 6 (2) a Licensing Authority may not refuse an application, or grant an application in respect of a different category or smaller number of gaming than that specified in the application, unless they have
 - (a) notified the applicant of their intention to refuse or grant the application in respect of
 - (i) a smaller number of machines than that specified in the application
 - (ii) a different category of machines than that specified in the application or
 - (iii) both, and
 - (b) given the applicant an opportunity to make representations
13. In pursuance of schedule 13 section 283 6 (3) a Licensing Authority can satisfy the opportunity to make representations by giving the applicant an opportunity to make:-
 - (a) oral representations
 - (b) written representations, or
 - (c) both
14. In pursuance of schedule 13 section 283 21 (1) the applicant for a holder of a permit may appeal to the Magistrates Court if the Licensing Authority:-
 - (a) reject an application for a permit
 - (b) grant an application for a permit in respect of a smaller number of machines than that specified in the application or a different category of machines from that specified in the application.

Equality Impact

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

Recommendation

18. That the Sub-Committee give consideration to this application.



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DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs L Rouse
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Email: liz.rouse@dudley.gov.uk

List of Background Papers

None

Licensing Sub-Committee 4 – 4th March 2014

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 Harry's, 19 Bradford Road, Dudley, DY2 0SH.

Background

2. Harry's, formerly known as (Off Licence and General Store) was first issued with premises licence on the 19th September 2005, that licence was transferred on the 17th January 2011.
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 15th January 2014, 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. On the 28th January 2014, the West Midlands Police made representations. A copy of that report has been circulated to Committee Members, interested parties and the premises licence holder.

8. On the 10th February 2014, the Director of Public Health made representations. A copy of that report has been circulated to Committee Members, Interested Parties and the Premises Licence Holder.
9. The current premises licence holder is Mr H S Bagry.
10. 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

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 Harry's, 19 Bradford Road, Dudley, DY2 0SH.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

DUDLEY METROPOLITAN BOROUGH COUNCIL

www.dudley.gov.uk

REVIEW OF PREMISES LICENCE
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to
Harrys, 19 Bradford Road, Dudley, DY2 0SH.

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 16th January 2014 and 12th February 2014

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.



Dudley
Metropolitan Borough Council

P J Tart
Director of Corporate Resources

Licensing Sub-Committee 4 – 4th March 2014

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 Yew Tree Stores, Yew Tree Hills, Netherton, Dudley, West Midlands, DY2 0JU.

Background

2. Yew Tree Stores was first issued with premises licence on the 19th 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 15th January 2014, 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. On the 24th January 2014, the West Midlands Police made representations. A copy of that report has been circulated to Committee Members, interested parties and the premises licence holder.
8. On the 10 February 2014 the Director of Public Health made representations. A copy of that report has been circulated to Committee members, interested parties and the premises licence holder.

9. The current premises licence holder is Mrs Saminder Samra.
10. 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

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
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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;
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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,
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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 Yew Tree Stores.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

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REVIEW OF PREMISES LICENCE
UNDER THE LICENSING ACT 2003

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representations in writing to the Licensing Office, Law and
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