

LICENSING SUB-COMMITTEE 3

TUESDAY 3RD DECEMBER, 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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DEMOCRATIC SERVICES OFFICER
Internal Ext – 8116
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You can view information about Dudley MBC on
www.dudley.gov.uk

The logo for Dudley Metropolitan Borough Council features the word "Dudley" in a large, bold, sans-serif font. A thick, black, curved line arches over the top of the letters "d", "u", and "d". Below the word "Dudley", the words "Metropolitan Borough Council" are written in a smaller, black, sans-serif font.

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

21st November 2013

Dear Member

Meeting of Licensing Sub-Committee 3 – Tuesday 3rd December, 2013

You are requested to attend a meeting of Licensing Sub-Committee 3 to be held on Tuesday 3rd December, 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 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 24th September, 2013 (copy attached).

5. APPLICATION FOR REVIEW OF PREMISES LICENCE – MICHAEL'S SUPERMARKET, 18 – 19 WOLVERHAMPTON STREET, DUDLEY (PAGES 1 – 5)

To consider a report of the Director of Corporate Resources.

6. APPLICATION FOR HOUSE TO HOUSE COLLECTIONS LICENCE – ROYAL ORTHOPAEDIC HOSPITAL BONE TUMOUR SERVICE (ROHBTS) AND RECYCLING AND MANAGEMENT SERVICES LTD (R & MS LTD) (PAGES 6 - 8)

To consider a report of the Director of Corporate Resources.

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

Distribution

Councillors: K. Finch
(Chair)

Mrs Ameson

Bills
(Substitute)

LICENSING SUB-COMMITTEE 3

Tuesday 24th September, 2013 at 10.10 am
In the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor K Finch (Chair)
Councillors Perks and Taylor

Officers

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

17. APOLOGIES FOR ABSENCE

Apologies for absence from the meeting were submitted on behalf of Councillors Mrs Ameson and Sykes.

18. APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that Councillor Perks and Taylor were serving as substitute members for Councillor Sykes and Mrs Ameson for this meeting of the Sub-Committee only.

19. DECLARATIONS OF INTEREST

No member declared an interest in accordance with the Members' Code of Conduct.

20. MINUTES

RESOLVED

That the minutes of the meeting held on 20th August, 2013, be approved as a correct record and signed.

21. APPLICATION TO VARY A PREMISES LICENCE – THE FAMILY SHOPPER, SCHOOL HOUSE, CHURCH ROAD, NETHERTON

A report of the Director of the Corporate Resources was submitted on an application for variation of the premises licence in respect of The Family Shopper, School House, Church Road, Netherton, Dudley.

Mr B S Kooner, Applicant, and Mr D Hardy, Licensing Trade Solutions, were in attendance at the meeting.

Following introductions, Mrs L Rouse, Licensing Clerk, Directorate of Corporate Resources, presented the report on behalf of the Council including an objection submitted by a local resident, received on 29th August, 2013 and submitted to all parties prior to the hearing.

Mr Hardy presented the case on behalf of Mr Kooner, and in doing so stated that Mr Kooner requested an extension of hours in order to trade the same hours as the existing outlets in the area.

In responding to a question by a member in relation to the premises being previously known as Kwik Save, Mr Hardy referred to the objection received, in particular the mention of the premises selling cheap alcohol, and stated that Mr Kooner operated four businesses and did not want the name of the premises to be associated to alcohol. It was noted that due to Mr Kooner's pricing structure, the alcohol sold was more expensive than other retailers.

In responding to a question by the Chair in relation to how Mr Kooner would cope with incidents of anti-social behaviour; Mr Hardy circulated photographs of the refusals register and stated that the number of entries of the register identified that employees were diligent and assured the Sub-Committee that this would continue should the application be granted.

Reference was made to the objection received by a local resident, in particular Mr Hardy stated that if there were significant cases of crime and disorder from customers, or to the residential area, then there would have been a number of representations by the Police and residents.

Mr Hardy further stated that Mr Kooner had installed an expensive external and internal CCTV system, all employees were aware of proxy sales and staff training was undertaken on a regular basis.

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 made for the variation of the premises licence in respect of The Family Shopper, School House, Church Road, Netherton, Dudley, be approved, in the following terms: -

Sale of Alcohol

Monday – Sunday 07.00 – 23.00

REASONS FOR DECISION

This is an application to increase the hours for the sale of alcohol, from the current time of 9pm; seven days a week, to 11.00pm seven days a week.

There have been no representations from the Police, or any other relevant authority, but there has been a representation by one local resident. She did not attend the Sub-Committee to support her letter which was received on 29th August, 2013.

The Sub-Committee has considered the representation. It raises general concerns about nuisance late at night, as well as in the day, and about the number of drunk persons attracted to the vicinity of the property and cheap alcohol. The applicant has shown the Sub-Committee his refusals register for September, 2013, which shows a number of refusals for alcohol and cigarettes.

The applicant also states that his alcohol pricing structure means that the alcohol he sells is more expensive than other local shops, which are his competitors.

The Sub-Committee does not find that the objections raised by the local resident shows that the alcohol causing the alleged problems in the area is sold from this shop. The operating schedule appears to be appropriate.

The Sub-Committee therefore grants this application for an extension of hours.

22. HALESOWEN FARMERS AND CRAFT MARKET

A report of the Director of Corporate Resources was submitted on an application made by Mr S Evans on behalf of Bescott Promotions for the renewal of the consent to engage in street trading in Halesowen Town Centre, issued to the Halesowen Farmers and Craft Market.

It was noted that the applicant was not in attendance at the meeting, and a request had been received to defer the hearing.

RESOLVED

That consideration of the application made for the renewal of the consent to engage in street trading in Halesowen Town Centre, issued to the Halesowen Farmers and Craft Market, be deferred to a future meeting of a Sub-Committee.

23. APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING – MR J SINGH – HIGH STREET, DUDLEY

A report of the Director of the Corporate Resources was submitted on an application made by Mr J Singh for the grant of consent to engage in street trading to sell Chicken Tikka, Chicken Samosa, Curry, Chick Pea Curry, Curry Rice, Tikka Wraps, and Hot and Cold drinks between the hours of 8.00am and 5.00pm, Monday to Sunday in High Street, Dudley.

Mr J Singh, Applicant, and his representative, Mr H Singh were in attendance at the meeting.

Following introductions, Mrs L Rouse, Licensing Clerk, Directorate of Corporate Resources, presented the report on behalf of the Council.

Mr H Singh then presented the case, on behalf of Mr J Singh, and in doing so informed the Sub-Committee that Mr J Singh applied for the consent to engage in street trading to sell food that was not available in the market.

Reference was made to the representations received by various officers submitted to the Sub-Committee prior to the meeting, in particular that the sites suggested by Mr Singh was too busy to support another street trader. Mr H Singh responded that there were currently four traders between the sites suggested, and there was sufficient space.

At this juncture, the Legal Advisor informed Mr J Singh that construction work was due to take place in Dudley Market Place during 2014, and therefore most traders would be relocated during that period.

Mr H Singh stated that Mr J Singh understood the works to be undertaken, and that he was informed that he had to purchase his van prior to submitting the application, and therefore required employment to re-pay the borrowed amount.

Reference was made to the limited amount of space available within the High Street, Mr J Singh highlighted the distances between the traders currently on the High Street.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application.

During the decision-making, the Sub-Committee agreed to undertake a site visit to the High Street, Dudley in order to ascertain whether there would be space for an additional street trader.

The meeting re-convened at 12 pm, and the parties were invited to return. It was noted that Alan Radford, Technician Engineer, Directorate of Urban Environment was in attendance at the meeting.

Mr Radford informed the Sub-Committee that his main concern would be the potential obstruction in the area, and the sites suggested by Mr J Singh were congested by pedestrians and street furniture, which would increase should the application be granted due to the customers awaiting orders and additional space required by the trader.

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 made by Mr J Singh for the grant of consent to engage in street trading at a site in High Street, Dudley, opposite the Halifax building society, be approved.

REASONS FOR DECISION

The Sub-Committee has noted the officer's comments in relation to the two positions for which the applicant has sought a trading consent.

The Sub-Committee has made a site visit to the consent street, and decides that there is sufficient space for this applicant to trade at his second choice location, opposite the Halifax building society.

Meeting ended at 1.00 pm

CHAIR

Licensing Sub-Committee 3 – 3rd December 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 Michael's Supermarket, 18 – 19 Wolverhampton Street, Dudley, DY1 1DB

Background

2. Michael's Supermarket was first issued with a premises licence on the 11th July 2005, that licence was subsequently transferred on the 9th May 2007.

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 11th October 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. On the 30th October 2013, 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.
8. On the 8th November 2013, the West Midlands Police 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 C Singh.
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 –

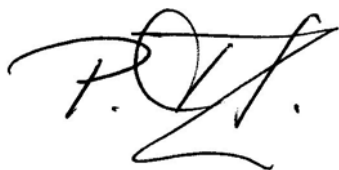
- (a) the applicant for the review
- (b) the holder of the premises licence or
- (c) any other person who made relevant representations in relation to the application for review.

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 Michael's Supermarket, 18 – 19, Wolverhampton Street, Dudley, West Midlands, DY1 1DB.



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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 Michael's Supermarket, 18-19 Wolverhampton Street, Dudley, DY1 1DB

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 12th October 2013 and 8th November 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

Licensing Sub-Committee 3 – 3rd December 2013

Report of the Director of Corporate Resources

Application for House to House Collections Licence

Royal Orthopaedic Hospital Bone Tumour Service (ROHBTS) and Recycling and Management Services Ltd (R & MS Ltd)

Purpose of Report

1. To consider the application for the grant of a House to House Collections Licence in respect of Recycling and Management Services Ltd on behalf of the charity known as the Royal Orthopaedic Hospital Bone Tumour Services.

Background

2. On the 16th October 2013 Mr Nicholas John Kell of R & MS Ltd made application for a House to House Collections Licence in respect of the charity known as ROHBTS. A copy of that application was forwarded to Committee Members and interested parties.
3. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all House to House Collection applicants to submit income and expenditure accounts for the previous financial year.
4. In recent years applications for House to House 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 House to House Collection Licences 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. Copies of those accounts have been circulated to Committee Members and interested parties.
5. Copies of the application were circulated to the West Midlands Police and the Directorate of the Urban Environment (Highways). These agencies raised no objections to the application.
6. This report has a direct link to the Council's policy for safety as the principal reason for submission is safeguarding the public.

Finance

7. There are no financial implications.

Law

8. House to house collection permits are governed by Section 2 of the House-to-House Collections Act 1939.
9. Council may refuse to grant a licence or where a licence has been granted may revoke it if it appears to the Authority:-
 - (a) that the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
 - (b) that remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person.
 - (c) that the grant of a licence would be likely to facilitate the commission of any offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection.
 - (d) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any offences specified in the Schedule to this Act, or has been convicted in any part of His Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
 - (e) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificate of authority being obtained by persons other than persons so authorised.
 - (f) that the applicant or holder of the licence has refused or neglected by furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the fore-going paragraphs.
10. If the Committee refuse to grant a licence or revoke a licence which has been granted. There is a right of appeal within 14 days to the Secretary of State against the refusal or revocation of licence.

Equality Impact

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

Recommendation

13. That the Committee consider the applications for House to House Collections Licence in respect of Royal Orthopaedia Hospital Bone Tumour Services/ Recycling and Management Services Ltd.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers