

LICENSING SUB-COMMITTEE 3

TUESDAY 16th JULY, 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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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

4th July 2013

Dear Member

Meeting of Licensing Sub-Committee 3 – Tuesday 16th July, 2013

You are requested to attend a meeting of Licensing Sub-Committee 3 to be held on Tuesday 16th July, 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 15th January, 2013 (copy attached).

5. APPLICATION FOR REVIEW OF PREMISES LICENCE – HARVESTIME GENERAL STORES, 35/37 LANGLAND DRIVE, SEDGLEY (PAGES 1 – 5)

To consider a report of the Director of Corporate Resources.

6. APPLICATION FOR REVIEW OF PREMISES LICENCE – SELECT AND SAVE (FORMERLY KNOWN AS KINGSWAY STORES), 7 BILSTON STREET, SEDGLEY (PAGES 6 - 10)

To consider a report of the Director of Corporate Resources.

7. APPLICATION FOR PREMISES LICENCE – 35 CHURCH STREET, PENNETT, DUDLEY (PAGES 11 - 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: | K. Finch (Chair) | Mrs Ameson | Sykes |
|--------------|---------------------|------------|-------|

LICENSING SUB-COMMITTEE 3

Tuesday 15th January, 2013 at 10.10 am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor K Finch (Chair)
Councillors Mrs. Aston and James

Officers

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

Also in attendance

Miss L Mason (observer).

22. DECLARATIONS OF INTEREST

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

23. MINUTES

RESOLVED

That, the minutes of the meeting held on 30th October 2012, be approved as a correct record and signed.

24. APPLICATION FOR RENEWAL AND VARIATION OF STREET TRADING CONSENT – MR F A SMITH

A report of the Director of Corporate Resources was submitted on an application made by Mr F A Smith for the renewal and variation of his street trading consent to sell hot dogs, burgers, fried, bacon, sausage, eggs, tomatoes, beans, mushrooms, hot and cold drinks and ice cream in Market Place, Dudley; Birmingham Street, Dudley; Upper High Street, Dudley; and Junction of Foster Street/High Street, Stourbridge.

Mr M Smith, on behalf of Mr F A Smith, was 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 Smith then presented his representations, and in doing so informed the Sub-Committee that he did not envisage any obstruction to pedestrians by a nearby crossing by the new proposed site, as referred to by Mr Radford, Technician Engineer, Directorate of the Urban Environment, in his representations submitted to the Sub-Committee prior to the meeting.

It was further noted that Mr Smith stated that he intended to change the products sold such as hot dogs and burgers to jacket potatoes.

In responding to comments made, Mr Smith stated that he believed that the new location at Birmingham Street, Dudley would benefit those who worked and visited the town centre.

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 for the renewal and variation of his street trading consent in Market Place, Dudley; Birmingham Street, Dudley; Upper High Street, Dudley and Junction of Foster Street / High Street, Stourbridge, be approved.

REASON FOR DECISION

The Sub-Committee has considered the application by Mr F A Smith (presented by Mark Smith) for renewal of street trading consents in three locations and a variation of site in Birmingham Street, Dudley.

The Sub-Committee has considered the point raised by Mr Radford of the Directorate of the Urban Environment regarding the proximity of the new proposed site to a crossing, but is satisfied that this will not cause any obstruction to pedestrians. The Sub-Committee notes and approves the change of food from burgers and hot dogs to potatoes. Mr Smith must always keep the area around his van free from all obstructions.

25. APPLICATION FOR HOUSE TO HOUSE COLLECTIONS LICENCE – BRITISH FORCES FOUNDATION (MIDLANDS TEXTILES LIMITED)

A report of the Director of Corporate Resources was submitted to consider an application for the grant of a House to House Collections Licence in respect of Midlands Textiles Limited on behalf of the charity known as British Forces Foundation.

It was noted that the applicant was not in attendance at the meeting.

Having decided to hear the matter in the applicant's absence, there followed a discussion in respect of the accounts submitted to the Sub-Committee by the applicant.

Following a brief discussion it was

RESOLVED

That, the grant of a House to House Collections Licence in respect of British Forces Foundation be deferred to a future meeting of the Sub-Committee when the applicant shall attend the meeting and prior to that meeting supply the information contained in Section 2 (f) of the House to House Collections Act, 1939

26

APPLICATION FOR HOUSE TO HOUSE COLLECTIONS LICENCE – A SMILE FOR A CHILD (FOX RECYCLING LTD)

A report of the Director of Corporate Resources was submitted to consider an application for the grant of a House to House Collections Licence in respect of Fox Recycling Limited on behalf of the charity known as A Smile for a Child.

It was noted that the applicant was not in attendance at the meeting.

Having decided to hear the matter in the applicant's absence, the Licensing Clerk presented the report on behalf of the Council.

Following a brief discussion it was

RESOLVED

That, following careful consideration of the application, the grant of a House to House Collections Licence in respect of Fox Recycling Limited be approved.

The meeting ended at 11.00am

CHAIR

Licensing Sub-Committee 3 – 16 July 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 Harvestime General Stores, 35/37 Langland Drive, Sedgley, West Midlands, DY3 3TH.

Background

2. Harvestime General Stores was first issued with a premises licence on the 19th September 2005, that licence was subsequently transferred on the 15th August 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 24th May 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 3rd June 2013, the West Midlands Police made representations. A copy of that report has been circulated to Committee members, interested parties and the premises licence holders.

8. On the 17th June 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 holders.
9. The current premises licence holders are Mr H S Sangarah and Mrs R Sangarah.
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 Harvestime General Store, Sedgley, Dudley, West Midlands, DY3 3TH.



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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

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 Harvestime General Stores, 35/37 Langland Drive, Dudley, DY3 3TH.

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 25th May 2013 and 21st June 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 – 16th July 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 Select & Save (formerly known as Kingsway Stores), 7 Bilston Street, Sedgley, West Midlands, DY3 1JA.

Background

2. On the 12th June 2007, an application was received in respect of the premises formerly known as Kingsway Stores, 7 Bilston Street, Sedgley, West Midlands for the grant of a premises licence.
3. A letter of objection was received from a local resident.
4. This matter was considered by the Licensing Sub-Committee 2 on 31st July 2007. The Committee resolved that the application be granted.
5. That licence was subsequently transferred on 3rd April 2009, 5th January 2012 and 10th September 2012.
6. The current premises licence is issued for the following:-

| | | |
|-----------------|--------------------|---------------|
| Sale of Alcohol | Monday to Saturday | 08.00 – 21.00 |
| | Sundays | 10.00 – 21.00 |
| | Good Friday | 08.00 – 21.00 |
| | Christmas Day | 12.00 – 15.00 |
| | Christmas Day | 19.00 – 21.00 |
| | | |

7. On 24th May 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.
8. 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.

9. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
10. On the 3rd June 2013, the West Midlands Police made representations which have been forwarded to Committee members, interested parties and the premises licence holder.
11. On the 17th June 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.
12. The current premises licence holder is Mr R Ralhan.
13. 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

14. There are no financial implications.

Law

15. 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
16. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
 17. 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.
 18. 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.

19. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
20. 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,
21. 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).
22. 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.
23. 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.
24. 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.
25. 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
26. Pursuant to schedule 5 part 1, section 8(2)
27. 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

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

Recommendation

31. That the Sub-Committee determine the review of the premises licence in respect of Select & Save, 7 Bilston Street, Sedgley, Dudley, West Midlands, DY3 1JA.



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DIRECTOR OF CORPORATE RESOURCES

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REVIEW OF PREMISES LICENCE
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to Select & Save,
7 Bilston Street, Sedgley, DY3 IJA.

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 25th May 2013 and 21st June 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 – 16th July 2013

Report of the Director of Corporate Resources

Application for a Premises Licence

Purpose of Report

1. To consider the application for the grant of a premises licence in respect of the premises known as 35 Church Street, Pensnett, Dudley, DY5 4HB.

Background

2. On the 22nd May 2013, an application was received from Mr Shamas Mahmud for the grant of a premises licence in respect of the premises known as 35 Church Street, Pensnett, Dudley, DY5 4HB.
3. The application had the following documents enclosed:-
 - Plan of the premises
 - Correct fee of £100.00
 - Consent of DPS
4. The application for a premises licence was initially for the sale of alcohol for 24 hours. However, following representations from the West Midlands Police and mediation the applicant has varied the hours as follows:-

Sale of alcohol

Monday – Sunday inc 08.00 until 23.00
5. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
6. Representations have been received from a local resident. A copy of those representations have been sent to the applicant, Committee members and interested parties in accordance with the Licensing Act 2003.

7. Representations have also been received from the Directorate of the Urban Environment (Trading Standards). A copy of those representations have also been sent to the applicant, Committee members and interested parties in accordance with the Licensing Act 2003.
8. The premises have previously held a premises licence under different management which was revoked in October 2012. Investigations are still being carried out in relation to potential offences of unlicensed sales and exposing alcohol for sale at the premises following the revocation of that licence.
9. This application falls within the Council's responsibility for Taxi and Private Hire 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 determination of applications for the grant of a premises licence is governed by the Licensing Act 2003, part 3, section 18.
12. Pursuant to Section 18(3) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - (a) hold a hearing to consider them, unless the authority, the applicant each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the Licensing objectives.
13. Pursuant to Section 18 (4) the steps are:-
 - (a) to grant the licence subject to:-
 - (i) conditions that are consistent with the operating schedule accompanying the application modified to such an extent as the authority considers appropriate for the promotion of the licensing objectives, and
 - (ii) any condition which must under section 19, 20 or 21 included in the licence;
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application

14. Pursuant to Section 23(1) of the Licensing Act 2003 where an application (or any part of an application) is granted under section 18 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to:-
- 1 (a) (i) the applicant
 - 1 (a) (ii) any person who made relevant representations in respect of the application and
 - 1 (a) (iii) the Chief Officer of Police for the police area in which the premises are situated and
 - 1 (b) issue the application with the licence and a summary of it
15. Pursuant to section 23(2) where relevant representations were made in respect of the application, the notice under subsection (1)(a) must state the authorities reasons for its decisions as to the steps (if any) to take under section 18(3)(b).
16. Pursuant to section 23(3) where an application is rejected under section 18, the licensing authority must immediately give a notice to that effect stating its reasons for the decision, to
- (a) the applicant
 - (b) any person who made relevant representations in respect of the application, and
 - (c) the Chief of Police area in which the premises are situated
- Where a Local Authority grant a licence under section 18 pursuant to schedule 5 of the Licensing Act, section 2 the holder of the licence may appeal against any decision:-
- (a) to impose conditions on the licence under subsection (2)(a) or 3(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor)
17. Where a person who made relevant representations in relation to the application desires to contend:-
- (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section, he may appeal against the decision.
18. In pursuance of regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005) the Licensing Authority must make its determination at the conclusion of the hearing.

19. If the Licensing Authority refuse to grant the application, there is a right of appeal to the Magistrates' Court pursuant to schedule 5 section 18 part 1(a).

Equality Impact

20. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
21. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

22. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers