

LICENSING SUB-COMMITTEE 2

TUESDAY 29TH APRIL, 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
External – 01384 818116
E-mail – Karen.taylor@dudley.gov.uk

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www.dudley.gov.uk


Dudley
Metropolitan Borough Council

IMPORTANT NOTICE

MEETINGS IN DUDLEY COUNCIL HOUSE

Welcome to Dudley Council House

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Your ref:	Our ref:	Please ask for:	Telephone No.
	KT	Karen Taylor	01384 818116

16th April, 2014

Dear Member

Meeting of the Licensing Sub-Committee 2 – Tuesday 29th April 2014

You are requested to attend a meeting of the Licensing Sub-Committee 2 to be held on Tuesday 29th April 2014 at 10.00 am in the Council Chamber, Council House, Priory Road 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 25th March, 2014 (copy attached).

5. APPLICATION FOR REVIEW OF PREMISES LICENCE –
SUPERSAVE, 79 RUSSELLS HALL ROAD, DUDLEY (PAGES 1 -6)

To consider a report of the Director of Corporate Resources.

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

To: All Members of Licensing Sub-Committee 2, namely:

Councillor Russell
(Chair)

Councillor Cowell

Councillor Taylor

LICENSING SUB-COMMITTEE 2

Tuesday 25th March, 2014 at 10.15 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillors Cowell, Perks and Taylor

Officers: -

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

15 **ELECTION OF CHAIR**

In the absence of the Chair (Councillor Russell) it was

RESOLVED

That Councillor Cowell be elected Chair for this meeting of the Sub-Committee only.

(Councillor Cowell in the Chair)

16 **APOLOGY FOR ABSENCE**

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

17 **APPOINTMENT OF SUBSTITUTE MEMBER**

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

18 **DECLARATIONS OF INTEREST**

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

19 **MINUTES**

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 14th January, 2014, be approved as a correct record and signed.

20

APPLICATION FOR GRANT OF A STREET COLLECTION PERMIT – MORE MASCOTS PLEASE CIC

A report of the Director of Corporate Resources was submitted on an application made by Miss C Davies of More Mascots Please CIC, for the grant of a Street Collection Permit to collect in Dudley Town Centre.

Miss C Davies, Applicant, was in attendance at the meeting together with Miss V Bridgewater, Member Director and a supporter.

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

Miss Davies then presented her case, and in doing so stated that the company had been set up in May, 2013, to support disabled and underprivileged children on an individual or group basis. It was noted that there were seven Directors and one Member Director who worked voluntarily for the company, and did not receive any income or expenses.

It was noted that as the company had not been established for a long period of time, there were limited resources and should the permit be granted it would provide stability and allow the company to assist children in the Dudley borough.

In responding to a question by a Member, Miss Davies confirmed that although there were no audited accounts, as these would not be available before eighteen months from the date of incorporation, further bank statements could be provided.

In responding to a question by a Member, Miss Davies stated that monies raised would be donated to children directly, such as purchasing gifts and contributing to aids to assist children with disabilities.

Miss Davies informed the Sub-Committee that a street collection permit had been granted by Wolverhampton City Council that enabled her to raise funds to assist children in the Wolverhampton borough.

In responding to a question by the Legal Advisor, Miss Davies confirmed that the application for the street collection permit was for specific dates only and not for a twelve month period, and that there would be three people collecting donations in sealed buckets.

It was further noted that as well as fundraising, the company was also an enterprise, however Miss Davies assured the Sub-Committee that all fundraising were used solely for the children, and any monies received from events such as face painting contributed towards costs and purchasing of items to assist with the fundraising.

Following further discussion, 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 Miss C Davies of More Mascots Please CIC, for the grant of a Street Collection Permit to collect in Dudley Town Centre, be granted.

REASONS FOR DECISION

The Sub-Committee grants a street collection permit to More Mascots Please CIC to collect money in or near Dudley Market on 18th April, 2014 – 8.30am – 3pm; 19th April 2014 – 8.30am – 3pm; 22nd April, 2014 – 1.30pm – 4pm and 24th April, 2014, 8.30 am – 3pm. The consent is for three persons to collect money in sealed buckets.

The Sub-Committee heard evidence that the company had been registered in May, 2013, and the company number was provided. The registration of the company has been verified by the Sub-Committee today.

As a new company, it was not able to present audited accounts. These will not be available before 18 months from the date of incorporation. The Sub-Committee has however seen a hand written document setting out expenditure and income from June, 2013 to January, 2014. The Sub-Committee was also provided with a bank statement and was able to reconcile some of the items on both documents.

The Sub-Committee therefore decided that although the policy of providing audited accounts has not been complied with, it has been able to satisfy itself that the company has been set up for the benefit of local children in need.

In granting the permit for these four dates, the Sub-Committee expects that any future applications will be accompanied by receipts to evidence that sums of money have been given to specific persons or causes of a charitable nature, as clear evidence of this has not been provided today.

The consent for these four dates is given on the basis that monies collected will be used solely for the benefit of a Dudley child.

21 APPLICATION FOR REVIEW OF PREMISES LICENCE –
SUPERSAVE, 79 RUSSELLS HALL ROAD, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Supersave, 79 Russells Hall Road, Dudley.

Mr N Hussain (Premises Licence Holder) was in attendance together with a supporter, Mr Hussain.

Also in attendance were Mr G Wintrip, Age Restricted Products Enforcement Officer, Directorate of the Urban Environment, Ms D McNulty, Office of Public Health and Ms K Turley, Planning and Licensing Officer, West Midlands Police.

Following introductions, it was noted that a Mr K Khan, Designated Premises Supervisor, was not in attendance at the meeting.

It was further noted that the premises licence had been transferred to Mr N Hussain on 14th February, 2014 following the sale of alcohol to a child on 10th January, 2014, and that the current Designated Premises Supervisor, Mr Khan was the Premises Licence Holder during the time of the sale.

In responding to a question by the Legal Advisor, Mr Hussain stated that Mr N Hussain was in the process of becoming the owner of the business, and would transfer the Designated Premises Supervisor from Mr Khan to Mr N Hussain.

Following further discussion, the parties withdrew from the meeting in order to enable the Sub-Committee to consider whether the meeting could continue without the presence of Mr Khan.

RESOLVED

That consideration of the application made for the review of the premises licence in respect of Supersave, 79 Russells Hall Road, Dudley be adjourned to a re-convened meeting to be held on Tuesday 29th April, 2014.

The meeting ended at 12 pm

CHAIR

Licensing Sub-Committee – 2 – 29th April 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 Supersave, 79 Russells Hall Road, Dudley, West Midlands, DY1 2JW.

Background

2. Supersave, 79 Russells Hall Road, Dudley, was first granted a premises licence on the 20th September 2005 the premises was at that time known as Middlepark Food & Wine, that licence was subsequently transferred on the 3rd July 2006.

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 July 2013, an application for the review of the premises licence was received from the Trading Regulation and Enforcement Manager. A copy of that application was circulated to Committee Members and interested parties in accordance with the Licensing Act 2003.
5. The Council advertised the application for review of the premises licence in accordance with Licensing Regulation S1, 2004, No 42, Section 38.
6. On the 1st August 2013, the West Midlands Police made representations.
7. This matter was considered by the Licensing Sub-Committee 1 on the 10th September 2013, the Committee resolved that the premises licence be suspended for a period of four weeks and that the Designated Premises Supervisor be removed.
8. The Committee further resolved that the following conditions be attached to the premises licence:-

1. All alcohol purchased for sale on the premises must only be purchased from a recognised, reputable and traceable wholesaler.
2. All alcohol purchased for sale on the premises must be covered by a receipt, the receipt will be on headed notepaper bearing the name, address and contact number of the supplier together with their VAT and company registration number where appropriate. These receipts are to be kept in a file for a minimum of 2 years and must be made available for inspection, on demand, by an officer of a responsible authority.
9. That licence was subsequently transferred into the name of Mr Kamran Khan on the 19th September 2013.
10. On the 31st January 2014, a further 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 the Committee Members and interested parties in accordance with the Licensing Act 2003.
11. The Council has advertised the application for the review of the premises licence in accordance with the Licensing Regulation S1. 2004 No 42 Section 38. A copy of that notice is attached to this report as Appendix 1.
12. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
13. On the 10th February 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.
14. On the 27th 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.
15. On the 14th February 2014, the premises licence was again transferred into the name of Mr Naseer Hussain who is now the current premises licence holder.
16. The Trading Standards Department have been contacted and confirmed that they still wish to proceed with the application for the review of the premises licence.
17. This matter was considered by the Licensing Sub-Committee on the 25th March 2014, the Committee resolved that due to the non-attendance of the DPS, that the matter be deferred.
18. 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

19. There are no financial implications.

Law

20. 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
21. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
22. The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
23. The steps are -
- a) to modify the conditions of the licence;
 - b) to exclude a licensable activity from the scope of the licence;
 - c) to remove the designated premises supervisor;
 - d) to suspend the licence for a period not exceeding three months;
 - e) to revoke the licence;
- and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
24. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
25. Where the authority takes a step mentioned in subsection (4) (a) or (b) it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify,

26. In this section “relevant representations” means representations which -
- (a) are relevant to one or more of the licensing objectives, and
 - (b) meet the requirements of subsection (8).
27. The requirements are -
- (a) that the representations are made –
 - (i) by the holder of the premises licence, a responsible authority or an interested party, and
 - (ii) within the period prescribed under section 51(3)(c)
 - (b) that they have not been withdrawn, and
 - (c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
28. Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
29. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to -
- a) the holder of the licence
 - b) the applicant
 - c) any person who made relevant representations, and
 - d) the chief officer of police for the police area (or each police area) in which the premises are situated.
30. A determination under this section does not have effect -
- a) until the end of the period given for appealing against the decision, or
 - b) if the decision is appealed against, until the appeal is disposed of
31. Pursuant to schedule 5 part 1, section 8(2)
32. 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

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

Recommendation

36. That the Sub-Committee determine the review of the premises licence in respect of Supersave, 79 Russells Hall Road, Dudley, West Midlands, DY1 2JW.



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DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs. L Rouse
Telephone: 01384 815377
Email: liz.rouse@dudley.gov.uk

List of Background Papers

DUDLEY METROPOLITAN BOROUGH COUNCIL

www.dudley.gov.ukREVIEW OF PREMISES LICENCE
UNDER THE LICENSING ACT 2003

Notice of Review of the Premises Licence issued to Supersave, 79
Russells Hall Road, Dudley, DY1 2JW

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 1st February 2014 and 28th 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.



P J Tart
Director of Corporate Resources