

LICENSING SUB-COMMITTEE 3

TUESDAY 24TH SEPTEMBER, 2013

AT 10.00 AM
COMMITTEE ROOM 1
COUNCIL HOUSE
PRIORY ROAD
DUDLEY

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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. Below "Dudley", the words "Metropolitan Borough Council" are written in a smaller, standard sans-serif font.

Dudley
Metropolitan Borough Council

IMPORTANT NOTICE

MEETINGS IN DUDLEY COUNCIL HOUSE

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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.

4. MINUTES

To approve as a correct record and sign the minutes of the meeting held on 20th August, 2013 (copy attached).

5. APPLICATION TO VARY A PREMISES LICENCE – THE FAMILY SHOPPER, SCHOOL HOUSE, CHURCH ROAD, NETHERTON, DUDLEY (PAGES 1 – 3)

To consider a report of the Director of Corporate Resources.

6. HALESOWEN FARMERS AND CRAFT MARKET (PAGES 4 - 9)

To consider a report of the Director of Corporate Resources.

7. APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING – MR J SINGH – HIGH STREET, DUDLEY (PAGES 10 - 11)

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
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LICENSING SUB-COMMITTEE 3

Tuesday 20th August, 2013 at 1.10 pm
in Committee Room 3, The Council House, Dudley

PRESENT:-

Councillor K Finch (Chair)
Councillors Bills and Sykes

Officers

Mr R Clark (Legal Advisor), Mr T Parkes (Enforcement Officer) and Mrs K Taylor (Directorate of Corporate Resources).

8. APOLOGY FOR ABSENCE

An apology for absence from the meeting was submitted on behalf of Councillor Mrs Ameson.

9. APPOINTMENT OF SUBSTITUTE MEMBER

It was noted that Councillor Bills was serving as a substitute member for Councillor Mrs Ameson for this meeting of the Sub-Committee only.

10. DECLARATIONS OF INTEREST

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

11. MINUTES

RESOLVED

That the minutes of the meeting held on 16th July, 2013, be approved as a correct record and signed.

12. APPLICATION FOR REVIEW OF PREMISES LICENCE – CRYSTAL NEWS AND OFF LICENCE (ALSO KNOWN AS WORDSLEY NEWS AND BOOZE), 1 KINVER STREET, WORDSLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Crystal News and Off Licence (also known as Wordsley News and Booze), 1 Kinver Street, Wordsley.

Mr C S Randhawa, Premises Licence Holder, and Mr A Curtis, Solicitor, were in attendance at the meeting.

Also in attendance were Mr C King, Principal Trading Standards Officer, and Mr G Wintrip, Age Restricted Products Officer, both from the Directorate of the Urban Environment, and PC A Baldwin, Licensing Officer of West Midlands Police.

Following introductions, Mr Curtis requested the submission of further information, specifically a one-page document outlining a business lease agreement. All parties agreed to the request made.

Mr T Parkes, Enforcement Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

Mr King presented the representations of Trading Standards and in doing so highlighted that the grounds for the review had been based on the undermining of the licensing objective, namely, the prevention of crime and disorder, due to the poor management of the premises following the discovery of counterfeit alcohol for sale on 10th October, 2012 and 16th May, 2013 in direct contravention of the licensing objectives.

Mr King confirmed that the current Premises Licence Holder was Mr Randhawa, and a Mr Afzal was the Designated Premises Supervisor.

On 10th October, 2012, during a routine inspection, an officer found three 1ltr bottles of Glens vodka and one 70cl bottle of High Commissioner whiskey offered for sale at the premises. The bottles were seized as it was suspected that they were counterfeit.

A second inspection was undertaken on 16th May, 2013 which found four 1ltr bottles of High Commissioner whiskey, two 70cl bottles of High Commissioner whiskey and two 70cl bottles of Glens vodka offered for sale at the premises. The bottles were seized as it was suspected that they were counterfeit, together with a hand written sign advertising the 70cl bottles of Glens vodka for sale at £8.99 a bottle.

It was noted that the advertised price of the Glens vodka was considerably cheaper than other retail outlets in the borough, and according to one specialist wine and spirits merchant, it would not be possible to purchase the vodka for that price from a cash and carry warehouse.

The manufacturer of the spirits had confirmed that although the bottles contain genuine whiskey and vodka, they were originally meant for the export market and not for sale in this country. The bottles were found to have counterfeit duty paid labels fixed to the rear so as to avoid the excise duty payable to HMRC.

Requests have been made to Mr Afzal, Designated Premises Supervisor, to contact Trading Standards to discuss the seizures, however Mr Afzal had failed to do so.

In concluding, Mr King stated that should the Sub-Committee be minded not to revoke or suspend the premises licence, they could consider including additional conditions to the licence. A full list of the proposed additional conditions had been circulated to all parties prior to the meeting.

PC Baldwin then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had carried out checks on the police systems and that there was no recent intelligence in relation to underage sales at the premises or any issues such as anti-social behaviour or incidents of crime in the area.

Mr King clarified that the seized goods were designed for export, and that similar incidents were increasing within the trade. He also stated that when a premises had goods seized on two occasions a review of the premises licence would be brought to a Sub-Committee.

In responding to a question by a member, Mr King stated that counterfeit goods would not have the fiscal mark on the label, however it would be difficult for customers to identify whether the goods were genuine. He also stated that a wholesale purchaser would know that the bottles were not from a legitimate source.

Mr Curtis then presented the case on behalf of his client, Mr Randhawa, and in doing so informed the Sub-Committee that Mr Randhawa was the owner of the building and leased the premises to Mr Afzal, and therefore he was not involved in the operation of the business. It was noted that there was currently a civil dispute between Mr Randhawa and Mr Afzal.

Mr Curtis stated that Mr Randhawa's priority was to protect the licence for future leaseholders, and that an application was ongoing to transfer the lease.

It was noted that Mr Randhawa had owned the building since 1990, which also included a residential area above the premises, and that revocation or additional conditions attached to the premises licence could cause difficulty in leasing the premises in future, as without the licence it would not be a viable business.

Mr Curtis further stated that Mr Afzal was responsible for the operation of the business and had exclusive possession, and that if needed Mr Randhawa would transfer the Designated Premises Supervisor licence to him.

In responding to a question by a member, Mr Randhawa confirmed that he had not visited the premises in over a year, and was shocked when he received a letter notifying him of the seizure of counterfeit bottles.

In responding to a question by a member, Mr Curtis confirmed that Mr Randhawa owned and leased a number of properties, but had no involvement with the businesses.

In responding to a question in relation to Mr Afzal, Mr Curtis stated that Mr Afzal was a personal licence holder, and a formal lease agreement was agreed between Mr Afzal and Mr Randhawa. Mr Randhawa confirmed that he did not previously know Mr Afzal when he approached Mr Randhawa in respect of the premises.

Following comments made, Mr King stated that he did not dispute the comments made by Mr Curtis and Mr Randhawa.

In responding to a question, Mr Randhawa stated that he had attempted to contact Mr Afzal following the seizures, and that he was still working at the premises.

In responding to a question by a member, Mr Randhawa stated that he was aware of the seizures when he received a letter in June, 2013, and that he contacted Mr Afzal who stated that he had contacted Trading Standards to clarify the labels on the bottles, and informed Mr Randhawa that the matter had been dealt with.

In concluding, Mr Curtis stated that if the Sub-Committee did not agree to remove Mr Afzal as the Designated Premises Supervisor, then Mr Randhawa would appoint himself as DPS until the tenancy was transferred to a potential new business occupier. He also stated that Mr Randhawa was not responsible for the operation of the business.

Following all comments, the Legal Advisor stated that the Sub-Committee would determine the application made on the information submitted and comments made at the meeting by all parties, and that any decision made should determine actions that are appropriate for the promotion of the licensing objectives.

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, following careful consideration of the information contained in the report submitted, and as reported at the meeting, the premises licence issued to Crystal News and Off Licence (also known as Wordsley News and Booze), 1 Kinver Street, Wordsley be suspended for a period of six weeks.

REASONS FOR DECISION

This is an application for a review of a premises licence, where the Premises Licence Holder has attended and the Designated Premises Supervisor has not. It is not clear that the Designated Premises Supervisor, Mr Afzal, knows about the date of this Sub-Committee, or that his designation as Designated Premises Supervisor is in jeopardy.

The facts are in agreement; they are that in October, 2012 and May, 2013 the premises was found to be selling vodka and whiskey that should not have been sold in the United Kingdom, because the labels had been counterfeited to indicate that appropriate duty had been paid. It had not. The Sub-Committee heard evidence that a purchaser would not notice the counterfeit labels, but that a wholesale purchaser would have known that the bottles were not from a legitimate source, and that the price was too low to be legitimate. Further, the same products were purchased for the shop in 2013, when the products had been removed in October 2012.

The Premises Licence Holder has indicated that he is in negotiation with Mr Afzal for him to transfer the business as a going concern. If necessary he also indicated that he would appoint himself as Designated Premises Supervisor under his personal licence.

The Sub-Committee accepts that the facts appear to indicate that the purchase of counterfeit alcohol was the responsibility of Mr Afzal as Designated Premises Supervisor, and owner of the business, but it is concerned that the Designated Premises Supervisor has not been able to put his case to this Sub-Committee. To remove him as Designated Premises Supervisor, without notice, and without giving him a chance to put his case forward, would have a very significant impact on his business, in breach of his rights to natural justice.

The Sub-Committee therefore suspends the premises licence for a period of six weeks. This to enable Mr Randhawa to negotiate with Mr Afzal for the transfer of the business, and if necessary, for Mr Randhawa to appoint himself as Designated Premises Supervisor.

13. APPLICATION FOR REVIEW OF PREMISES LICENCE – SANDHARS SUPERMARKET, 69 WELLINGTON 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 Sandhars Supermarket, 69 Wellington Road, Dudley.

It was noted that the Premises Licence Holder was not in attendance at the meeting, and a request had been received by his representative to adjourn the hearing, given that all parties that were responsible for the day to day running of the premises were on a pre booked holiday throughout August.

RESOLVED

That, consideration of the application made for the review of the premises licence in respect of Sandhars Supermarket, 69 Wellington Road, Dudley be deferred to a future meeting of a Sub-Committee.

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

A report of the Director of the Corporate Resources was submitted on an application for the review of the premises licence in respect of Select and Save (Formerly known as Kingsway Stores), 7 Bilston Street, Sedgley.

Mrs R Ralhan, Premises Licence Holder, together with her husband, Mr R Ralhan, and Mrs Hussain, Representative, were in attendance at the meeting.

Also in attendance were Mr C King, Principal Trading Standards Officer, and Mr G Wintrip, Age Restricted Products Officer, both from the Directorate of the Urban Environment, Ms D McNulty, Public Health, and PC A Baldwin, Licensing Officer of West Midlands Police Authority.

Following introductions by the Chair, Mr T Parkes, Enforcement Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

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

Mr King informed the Sub-Committee that on 24th April, 2013, a sixteen year old child test purchaser had been sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

On 8th January, 2013, an officer from Trading Standards carried out a visit to the premises and spoke to Mrs Ralhan, who stated that she was the joint owner of the business with her husband. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, information in respect of acceptable proof of age and the importance of keeping a refusals register. Mrs Ralhan was provided with an information pack that included an advice booklet, a Challenge 25 poster, a refusals register, a poster about proof of age and a sample Proof of Age Standards Scheme card. It was reported that during the course of this visit, Mrs Ralhan signed an ARP 00772 form to acknowledge receipt of the information pack.

It was noted that on 16th January, 2013, a tobacco test purchase exercise was conducted at the premises which did not result in a sale.

Mr King further stated that on 24th April, 2013, Trading Standards together with West Midlands Police, carried out a test purchasing exercise which was part of an ongoing series of test purchase exercises to test compliance once a premises had been advised. On that occasion, a sixteen year old male test purchaser volunteer purchased four cans of Foster lager with 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer, and did not ask for identification.

Following the sale, and having returned to the premises, it was discovered that the individual who sold the alcohol to the test purchaser had been Mrs Ralhan. It was noted that Mrs Ralhan's husband was also present at the time, and that she made no relevant comment after being cautioned after the alleged offence was pointed out to her.

On inspection of the premises, it was noted that there was a 'Challenge 25' poster displayed but no other Age Restricted Product literature was evident, and that the Refusals Register, which was issued on 8th January, 2013, was found to be unused and still in the envelope it was provided in.

Mrs Ralhan was then issued with a Fixed Penalty Notice.

In concluding, Mr King stated that should the Sub-Committee be minded not to revoke or suspend the premises licence, they could consider including additional conditions to the licence. A full list of proposed additional conditions had been circulated to all parties prior to the meeting.

PC Baldwin then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had carried out checks on the police systems and that there was no recent intelligence in relation to underage sales at the premises or any issues such as anti-social behaviour or incidents of crime in the area.

Ms McNulty then presented the representations of Public Health, which had been circulated to all parties in accordance with the Licensing Act 2003. She made particular reference to the number of well-documented impacts on the health of adolescents as a consequence of alcohol consumption.

It was noted that in the opinion of Ms McNulty, was the sale of alcohol to underage young people considered to be very serious and supported the recommendation to revoke or suspend the premises licence.

Mrs Hussain then presented the case on behalf of Mr and Mrs Ralhan, and in doing so stated that that the premises was a family-run business, and that although Mrs Ralhan accepted responsibility for the sale of alcohol to a child, she was upset and distracted at that time due to her mother being admitted to hospital.

Mrs Hussain further stated that Mrs Ralhan had implemented a number of measures in accordance with the proposed conditions suggested by Trading Standards.

Mr Ralhan stated that he understood the mistake made, and that he had increased his hours working at the premises to a full-time basis.

In responding to a question, the refusals register was circulated at the meeting, and Mr Ralhan confirmed that the Fixed Penalty Notice was paid the day following the sale on 24th April, 2013.

Following the representations of Trading Standards, Councillor Bills highlighted the importance of operating a refusals register, in particular that it should remain by the register at all times in order to enter any refusals immediately.

In responding to a question by the chair in respect of the proposed additional conditions submitted by Trading Standards, Mrs Hussain confirmed that Mr and Mrs Ralhan were in agreement with the proposals.

In responding to a question, Mr Ralhan confirmed that both he and Mrs Ralhan worked at the premises on a full-time basis, and a member of staff who was a personal licence holder worked weekends only.

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

The Sub-Committee having made their decision invited the parties to return and the Chair then outlined the decision.

RESOLVED

That, subject to the following conditions being applied to the premises licence, no further action to be taken in relation to the review of the premises licence in respect of Select and Save (formerly known as Kingsway Stores), 7 Bilston Street, Sedgley: -

Conditions

- (1) A written Proof of Age Policy (Challenge 25) is to be put in force, which all staff authorised to sell alcohol will be trained in and adhere to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age standards Scheme (PASS) proof of age card such as Citizen card. No other form of identification shall be accepted.
- (2) A4 notices to be displayed on the door to the premises and near the point of sale stating that it is an offence to buy alcohol for persons under the age of 18.

- (3) A Register of Refusals of Sale of Alcohol which indicates the date, time and reason for refusal will be operated and maintained at the premises. The Premises Licence Holder shall review the book once a week ensuring it is completed and up-to-date. The Premises Licence Holder will sign the book each time it is checked. This book shall be made available for inspection by an officer of any responsible authority.
- (4) CCTV to be in place and to be recording at all times when the premises are open for licensable activity, to the specifications of the West Midlands Police Crime Reduction Officer so that the alcohol display area and the point of sale area can be viewed. All images are to be recorded and kept for a minimum of 28 days and made available to any responsible authority upon request immediately, and all staff are to be trained and able to operate and download CCTV. The hard drive is to be locked but readily accessible to staff.
- (5) The Premises' CCTV shall be reviewed on a weekly basis in order to identify persons under the age of 18 who are attempting to buy alcohol or persons over the age of 18 buying on their behalf. A record of these checks shall be maintained and be available for inspection upon request by an officer of any responsible authority.
- (6) All persons engaged to sell alcohol must complete a training programme, which includes a written test to verify the competency of that person prior to them being authorised to sell alcohol.
- (7) The premises licence holder shall ensure that monthly reviews are conducted with any persons authorised to sell alcohol in order to reinforce training, promote best practice and policy. The monthly reviews will be recorded in writing.
- (8) A file shall be maintained at the premises for each person authorised to sell alcohol (with proof of identity which will be a copy of passport and/or driving licence). This file shall contain all training records for each person along with copies of monthly reviews as stated in point 7. This file shall be made available for inspection by any officer from a responsible authority upon request.
- (9) Any person who is suspected of purchasing alcohol for any other person, regardless of age, shall be refused service.

REASONS FOR DECISION

This is a review brought by Trading Standards, for a failed test purchase on 24th April 2013, by the premises licence holder, Mrs Ruma Ralhan.

The Sub-Committee heard this review on 16th July, 2013, and deferred the matter, due to a confusion as to who the premises licence holder was. It has now been confirmed that there was a typographical error by the licensing office, and that Mrs Ruma Ralhan is the premises licence holder. She was previously known, prior to marriage, as Ms Devi.

The sale is not disputed. Mrs Ralhan apologises for this. Her mitigation today is that her mother was ill and taken to hospital in April 2013 and that she was upset and distracted. The premises did refuse to sell tobacco to a test purchaser in January, 2013. However, at the test purchase on 24th April, 2013, the refusals register provided by Trading Standards was unopened in its envelope.

Mr and Mrs Ralhan have today agreed to the licence conditions put forward by Trading Standards.

The Sub-Committee has decided that this under age sale could have been prevented by proper use of a refusals register and competent management of the premises. It therefore takes the step of imposing the proposed conditions upon the premises licence.

The Sub-Committee accepts that the sale of alcohol to young persons is a very serious matter in terms of their health and development.

15. APPLICATION FOR A LICENSED PREMISES GAMING MACHINE PERMIT – THE LUTLEY OAK, 327 STOURBRIDGE ROAD, HALESOWEN

A report of the Director of Corporate Resources was submitted on an application for the grant of a Licensed Premises Gaming machine permit for three machines in respect of the Lutley Oak, 327 Stourbridge Road, Halesowen.

Ms L Bayliss, Account Manager from Gamestec, and Ms S Hayder, Manager of The Lutley Oak, were in attendance at the meeting.

Following introductions by the Chair, Mr T Parkes, Enforcement Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

Ms Bayliss made her own representations and in doing so outlined the recent refurbishment of the premises, and that the main reason for the application was following an increase in demand.

After a short discussion, it was

RESOLVED

That the application made for the grant of a licensed premises gaming machine permit for three gaming machines in respect of The Lutley Oak, 327 Stourbridge Road, Halesowen, be granted.

16. APPLICATION FOR HOUSE TO HOUSE COLLECTIONS LICENCE – BREAST CANCER (INTERSECOND LTD) “DO NOT DELAY”

A report of the Director of Corporate Resources was submitted on application for the grant of a House to House Collections Licence in respect of Breast Cancer (Intersecond Ltd) “Do Not Delay”.

It was noted that the applicant was not in attendance and notification of the non-attendance had not been received.

RESOLVED

That, the grant of a House to House Collections Licence in respect of Breast Cancer (Intersecond Ltd) “Do Not Delay” 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, and that should the applicant fail to attend the Sub-Committee the application be heard in absence.

Meeting ended at 3.40 pm

CHAIR

Licensing Sub-Committee 3 – 24th September 2013

Report of the Director of Corporate Resources

Application to Vary a Premises Licence

Purpose of Report

1. To consider the application for variation of the premises licence in respect of the The Family Shopper, School House, Church Road, Netherton, Dudley, West Midlands. DY2 OLY.
2. The premises formerly known as Kwik Save was first issued with a premises licence on 10th January 2013.
3. The current premises licence is issued for the following:

Sale of Alcohol Monday – Sunday 07.00 – 21.00
4. The current premises licence holder is Mr B S Kooner.
5. On the 1st August 2013, Licensing Trade Legal Services Ltd, made application on behalf of Mr Balraj Singh Kooner for the variation of the premises licence in respect of the premises now known as Family Shopper. A copy of that application has been circulated to the Committee members and interested parties in accordance with the Licensing Act 2003.
6. The application had the following documents:-
 - Correct fee - £190.00
 - Plan of the premises
7. The application is as follows:-

Sale of Alcohol Monday – Sunday 07.00 – 23.00
8. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
9. Representations have been received from a local resident. A copy of those representations has been circulated to the applicant, Committee members and interested parties.

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.

Law

11. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
12. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
 - Hold a hearing to consider item, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and,
 - Having regard to the representations, take such of steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
 - The steps are:-
 - To modify the conditions of licence;
 - To reject the whole or part of the application.
13. Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where an application (or any part of an application) is granted or rejected under Section 35 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to :-
 - the applicant;
 - any person who made relevant representations in respect of the application and
 - the Chief Officer of Police for the police area in which the premises are situated.
14. 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.
15. In pursuance of schedule 5, section 4 if the Licensing Authority refuse to grant the application vary the premises licence, there is a right of appeal to the Magistrates' Court.
16. In pursuance of schedule 5, section 4(2) where the Licensing Authority grant an application to vary a premises licence in whole or in part. The applicant may appeal against any decision to modify the conditions of the licence under subsection 4(a) of section 35 of the Licensing Act 2003.

17. In pursuance of schedule 5 section 4(3) where a person who made relevant representations to the application desires to contend:-
- a) that any variation made ought not to have been made, or
 - b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified item in a different way, under subsection 4(a) of section 35 of the Licensing Act.

They have the right of appeal to the Magistrates' Court.

Equality Impact

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

Recommendation

21. That the Committee give consideration to this application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

Licensing Sub Committee 3 – 24th September 2013

Report of the Director of Corporate Resources

Halesowen Farmers and Craft Market

Purpose of Report

1. To consider the application made by Mr. Steven 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.

Background

2. The Halesowen Farmers and Craft Market (formerly run by LSD Promotions) was first issued with a consent to engage in street trading on the 23rd November, 2002, for each second Saturday of each month.
3. On the 5th November, 2003 an application for renewal of the consent to engage in street trading in Halesowen Town Centre with effect from the 8th November, 2003 and the increase in trading days from one Saturday to two Saturdays per month was received along with an application for the variation of the goods to be sold.
4. This application was circulated to the West Midlands Police, Directorate of the Urban Environment and the Halesowen Town Centre Manager and Halesowen Chamber of Trade.
5. None of the agencies raised any objections to the application.
6. This matter was considered by the Licensing and Safety Committee on the 28th April 2004. The Committee resolved that the consent be issued and extended. They further resolved that the application for variation be deferred.
7. Following that hearing on the 28th April 2004, various letters were received by the Licensing Office, making objections to the variation of the street trading consent.

8. This application was considered by the Committee on the 29th July 2004. The Committee resolved that the application for variation be refused. That licence was subsequently renewed.
9. On the 24th August 2006, LSD Promotions made application for a further variation of the consent to engage in street trading to include crafts, hobbies, art, antiques, ceramic, fair-trade and unusual items.
10. This application was circulated as in paragraph 4 above.
11. The Town Centre Manager made comments which were brought to the attention of the Committee.
12. Various letters of objection were also received and brought to the attention of the Committee.
13. This matter was considered by the Committee on the 5th December 2006. The Committee resolved that the application for variation be granted for a period of 6 months and that it be reviewed after that period of time. The Committee further resolved that the samosa stall be removed from outside Dancers and be situated in a more convenient site.
14. On the 25th April 2007, LSD Promotions made application for the variation of the consent to include the 5th Saturday of the month when they occur.
15. This application was circulated as in paragraph 4 above. None of the agencies raised objections.
16. On 7th June 2007, LSD Promotions made application for the renewal of the consent to engage in street trading, that application was circulated to the relevant agencies. None of the agencies raised objections.
17. This matter was considered by the Sub-Committee on the 26th June 2007. The Committee resolved that the application be granted.
18. On the 2nd July 2009, LSD Promotions made application for the renewal of that licence for the 2nd, 4th and 5th Saturday of every month in Halesowen Town Centre.
19. That application was circulated as in paragraph 4 above.
20. The Town Centre Manager, Highways Department, Curatorial Services and Commercial Operations Manager and Local Traders all made representations which were brought to the attention of the Committee.
21. This matter was considered by the Committee on 29th September 2009. The Committee resolved that the application be granted with the following condition:-

No seating shall be provided for food and drink in the market.

22. That licence was subsequently renewed and bore the expiry date of the 30th July 2011.
23. On the 8th July 2011, LSD Promotions made application for the renewal and variation of the consent to engage in street trading. The variation was to change the format of the market from a Farmer's/Craft Market every second, fourth and fifth Saturday of the month to a General Market on every Saturday between the hours of 9.00am and 4.00pm. A copy of that application was circulated to Committee members and interested parties.
24. That application was also circulated as in paragraph 4 above.
25. Letters of objection were received from Community Groups and Local Traders along with a petition, copies of which were circulated to the applicant, Committee members and interested parties.
26. Representations were also received from Curatorial Services, Corporate Property, and the Halesowen Town Centre Manager which were also circulated to Committee members, the applicant and interested parties.
27. This matter was considered by the Licensing Sub-Committee on the 11th October 2011. The Committee resolved as follows:-
 - The format shall remain the same – every second, fourth and fifth Saturday of the month.
 - The market shall still be deemed a Farmer's and Craft Market.
 - The consent shall be varied to allow an extra 10 stalls, to a maximum of 35 stalls in total which may be of general format, but must be sympathetic to the established local trade.
 - The Committee will entertain a review of these modifications in 6 months if the applicant so desires.
28. That consent was transferred on the 20th January 2012 into the name of Mr Steven Evans, Bescott Promotions and bore the expiry date of 30th July 2012.
29. On the 20th February 2012, Mr Evans made application for the variation of the consent to engage in street trading to enable the street market to operate every Saturday. A copy of that application was circulated to Committee Members and interested parties.
30. That application was also circulated as in paragraph 4 above. In accordance with policy, the Town Centre Manager contacted Halesowen Chamber of Commerce and on the 27th February 2012, objections to the proposed variation of the consent to engage in street trading was received on behalf of the Cornbow Shopping Centre and the Halesowen Chamber of trade. A copy of those representations were circulated to the applicant, Committee Members and interested parties.

31. Objections to the proposed variation were also received from a local trader, the Halesowen Town Centre Manager and Councillor K Turner.
32. This matter was considered by the Licensing Sub-Committee on the 17th April 2012. The Committee resolved that the application to vary the consent to engage in street trading be refused. The reason for that decision was that the Committee finds the current frequency of market days achieves a reasonable balance between the interests of local shops, the market and its stall holders and the shoppers.
33. The Committee noted that the Sub-Committee of the 11th October 2011, stated that the market should be deemed a farmers and craft market and this is how the market should be referred to.
34. On the 13th July 2012, Mr Evans made applications for the renewal of the consent to engage in street trading. A letter was also received from Mr Evans confirming that they no longer require the use of Peckingham Street but still require the use of Great Cornbow Street for flexibility when necessary. Mr Evans also submitted a site plan. That application, letter and site plan were circulated to Committee members and interested parties.
35. That application, letter and site plan was also circulated as in paragraph 4 above.
36. The Halesowen Chamber of Trade together with a local trader made representations which were circulated to the Committee members, the applicant and interested parties.
37. None of the other agencies raised objections.
38. On the 5th October 2012, Mr Evans of Bescot Promotions made application for the variation of his street traders permit to enable him to run a Farmers and Craft Market in Halesowen Town Centre from Tuesday 18th December 2012 to Saturday 22nd December 2012 in the same format and to dress the stalls with a Christmas theme. This application was circulated as in paragraph 4 above.
39. On the 18th October 2012, Councillor Kenneth Turner made representations. A copy of those representations were forwarded to the applicant, Committee members and interested parties.
40. On Saturday 27th October 2012, the Licensing Enforcement Officer visited the market and noted the type of stalls appear to be within the terms of the consent.
41. On the 30th October 2012, the Cornbow Shopping Centre and members of the Halesowen Chamber of Trade made objections to the variation application. A copy of that e-mail was also circulated to the applicant, Committee members and interested parties.
42. This matter was considered by the Licensing Sub-Committee on the 27th November 2012, the Committee resolved that the renewal of the consent to engage in street trading in Halesowen Town Centre issued to the Halesowen Farmers and Craft Market be approved together with the following variation.

The Halesowen Farmers and Craft Market be permitted to trade on Friday 21st December 2012 and Saturday 22 December 2012.

The reason for the decision was as follows:

The Sub-Committee were happy to renew the consent to engage in street trading in Halesowen Town Centre for the next twelve months.

In regard to the Christmas extension, the Sub-Committee heard evidence from both parties and were aware of the need to balance the interests of the market traders and the shops and shoppers, therefore the Sub-Committee were happy to allow trading on Friday 21st December and Saturday 22nd December 2012. Both parties confirmed that they were happy with the definition of a stall size 8ft by 8ft with a counter size of 8ft by 4ft.

Bescott Promotions also agreed to reduce the stall size to 5ft wide between the Cornbow Centre and Peckingham Street.

43. The current street traders consent bore the expiry date of the 30th July 2013.
44. On the 10th July 2013 Mr Evan's made application for the renewal of the Street Trading Consent in respect of the Halesowen Farmer's and Craft Market. A copy of that application has been circulated to Committee Members and Interested parties.
45. That the application was also circulated as in paragraph 4 above.
46. On the 17th July 2013, the Halesowen Chamber of Trade made representation, a copy of that report has been circulated to Committee members, Interested parties and the Applicant.
47. This application falls within the Council's responsibilities for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

48. There are no financial implications.

Law

49. The grant of consents to engage in street trading is governed by Part III of Schedule IV to the Local Government (Miscellaneous Provisions) Act 1982. To trade without such a consent is an offence.
50. Paragraph 7(2) of Schedule IV of the 1982 Act, states that the Council may grant a consent if it thinks fit and, when granting or renewing a consent, the Council may attach such conditions as it considers necessary.

51. Paragraph 10 of Schedule IV of the 1982 Act, states that a street trading consent may be granted for one period not exceeding 12 months but may be revoked at any time.
52. Where the consent allows the holder to trade from a cart, barrow, or other vehicle, then the consent must specify the location from which the trader may trade and the times between which or periods for which he may trade.
53. There is no right of appeal against the Council's decision to vary a condition upon which a consent is issued, or refusal to grant or renew a street trader's consent.

Equality Impact

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

Recommendation

56. That the Committee consider Mr Evans' application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

Licensing Sub-Committee 3 – 24th September 2013

Report of the Director of Corporate Resources

Application for Consent to Engage in Street Trading

Mr Joga Singh - High Street, Dudley

Purpose of Report

1. To consider the application made by Mr Joga Singh for the grant of consent to engage in street trading at the site In High Street, Dudley, West Midlands.

Background

2. On the 1st July 2013, Mr Singh made application for the grant of a Street Trader's Consent to sell Chicken Tikka, Chicken Samosa, Curry, Chick Pea Curry, Rice, Tikka Raps, and Hot and Cold drinks between the hours of 8.00am and 5.00pm, Monday to Sunday in High Street, Dudley. A copy of that application has been circulated to the Committee Members and interested parties.
3. On the 9th July 2013, the CCTV, Curatorial Services and Dudley Market Manager made Comments a copy of that report has been circulated to Committee Members and the applicant.
4. The Directorate of the Urban Environment (Highways) made various comments which have been circulated to the Committee Members and the applicant.
5. On the 31st July 2013, the Marketing/Communications Manager made comments which have been circulated to Committee Members and the applicant.
6. The Chairman of DTCP made comments which have also been forwarded to Committee Members, and the applicant.
7. None of the other agencies raised objections to the application.
8. This application falls within the Council's responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

9. There are no financial implications.

Law

- 10. The grant of consents to engage in street trading is governed by Part III of Schedule IV to the Local Government (Miscellaneous Provisions) Act 1982. High Street, Dudley is a consent street designated as such by a resolution of the Council. To trade without such a consent is an offence.
- 11. Paragraph 7(2) of Schedule IV of the 1982 Act, states that the Council may grant a consent if it thinks fit and, when granting or renewing a consent, the Council may attach such conditions as it considers necessary.
- 12. Paragraph 10 of Schedule IV of the 1982 Act, states that a street trading consent may be granted for one period not exceeding 12 months but may be revoked at any time.
- 13. Where the consent allows the holder to trade from a cart, barrow, or other vehicle, then the consent must specify the location from which the trade/may trade and the times between which or periods for which he may trade.
- 14. There is no right of appeal against the Council's decision to vary a condition upon which a consent is issued, or refusal to grant or renew a street trader's consent.

Equality Impact

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

Recommendation

- 17. That the Committee consider Mr Singh's application for the grant of a street trading consent in Dudley Town Centre.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers