

Licensing Sub-Committee 1

**Tuesday, 25th November, 2014 at 10.00am
in the Council Chamber at the Council House, Priory Road, Dudley**

Agenda - Public Session (Meeting open to the public and press)

1. Apologies for absence.
2. To report the appointment of any substitute Members for this meeting of the Sub-Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm and sign the minutes of the meeting held on 16th September, 2014 as a correct record.
5. Application for Review of Premises Licence – Days Newsagents and Stores, 32 Madeley Road, Kingswinford.
6. Application for House to House Collections Licence – Action for Blind People / National Deaf Children's Society / Action for Hearing Loss – Personal Fundraising Services.
6. To consider any questions from Members to the Chair where two clear days notice has been given to the Director of Corporate Resources (Council Procedure Rule 11.8).



Director of Corporate Resources

Dated: 13th November, 2014

Distribution:

Councillor D Russell (Chair); Councillors D Blood and C Perks

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- The Democratic Services contact officer for this meeting is Karen Taylor, Telephone 01384 818116 or E-mail karen.taylor@dudley.gov.uk

Minutes of the Licensing Sub-Committee 1

Tuesday 16th September, 2014 at 10.00 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor D Russell (Chair)
Councillors D Blood and C Perks

Officers:-

R Clark (Legal Advisor), L Rouse (Licensing Clerk) and K Griffiths (Democratic Services Officer) – All Directorate of Corporate Resources.

5 **Declarations of Interest**

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

6 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 8th July, 2014, be approved as a correct record and signed.

7 **Application to vary a Premises Licence – The Red Lion, Brettell Lane, Stourbridge**

A report of the Director of Corporate Resources was submitted on an application for the variation of the premises licence in respect of the premises known as The Red Lion, Brettell Lane, Stourbridge.

Mr P Guy, Designated Premises Supervisor was in attendance at the meeting, together with Mr M Hill of the Furious Pub Company Limited.

Also in attendance was Mr T Glews, Environmental Protection Manager, Directorate of the Urban Environment.

Following introductions by the Chair, the Licensing Clerk presented the report on behalf of the Council. It was noted that a representation from a resident, objecting to the application, had been received.

Mr Glews outlined the representations received from Environmental Health and Safety and highlighted that the grounds of objection were based on the licensing objective concerning the prevention of public nuisance. He stated that The Red Lion public house was situated on Brettell Lane in a highly populated residential area. A copy of a map showing the extent of the residential area was circulated to the Sub-Committee. He indicated that any extension of licensing hours for the sale of alcohol and regulated entertainment at the premises could potentially increase the level of noise nuisance. Mr Glews reported that extending the licensing hours until 1.00am seven nights a week would increase the potential for noise disturbance created by music and patrons within the public house and patrons leaving the premises during sensitive night time hours, in what was a quiet residential area. He also referred to the beer garden at the rear of the public house and that the male toilets could only be accessed through the rear garden and expressed concerns that smokers would potentially cause noise nuisance to nearby residents.

Mr Glews then referred to the history of noise complaints made by residents. He reported that a total number of twelve complaints had been received from residents of five properties during September and October 2007, June and July 2009, August 2010 and October 2011. He stated that all of the complaints alleged noise disturbance from the playing of amplified music and/or the use of the rear yard of the premises.

In concluding, Mr Glews recommended that the Sub-Committee refuse the application to extend the licensing hours to 1.00am due to the character of the neighbourhood and the difficulty in controlling noise made by patrons and vehicles around the premises. He also requested that the Sub-Committee consider including additional conditions to the premises licence on the grounds of preventing public nuisance. A list of the proposed conditions had been circulated to all parties prior to the meeting.

Mr Guy indicated that he had no specific questions, however he stated that an area on the map, which had been circulated, and which was in close proximity to residential properties, was left vacant as the area was not owned by Furious Pub Company Limited.

In responding to a question from a Member, Mr Glews confirmed that no complaints had been received from adjoining properties, however he stated that the main complainant lived in Oakfield Close and made representations on behalf of the residential area surrounding the public house.

Mr Guy then presented his case and stated that he took all the comments from Environmental Health and Safety on board. He indicated that he did not intend to fully utilise the licensing hours applied for, however, wished to retain flexibility for special occasions and instances where it would be commercially viable to remain open. He had concerns that he would be at a commercial disadvantage as other competitors in the area had been granted additional opening hours. Whilst acknowledging the previous reputation of the premises, he indicated that practical measures had already been taken to address potential concerns relating to disorder, nuisance and anti social behaviour surrounding the premises. He referred in particular to the new CCTV system which had been installed, four cameras inside the premises, one at the rear and another at the front of the premises as protecting customers and monitoring clientele was a major priority. He also stated that new doubled glazed windows and doors had been fitted throughout the premises to control the level of noise emanating from the premises.

In continuing, Mr Guy indicated that he had extensive experience in managing a successfully run public house, having managed The Robin Hood without receiving any noise related complaints. He confirmed that he did not intend to run Karaoke nights, however, he would be supporting special events such as St Georges Day, 'New Moon' evenings and New Year but assured the Sub-Committee that the level of noise would be controlled. He indicated that his aim was to create a comfortable environment for customers to enjoy a social night out, providing speciality Belgian beers and assured the Sub-Committee that clientele causing anti-social behaviour and using bad language would not be tolerated.

Mr Guy indicated that he and Mr Hill had invested a lot of time and money into refurbishing the premises and stated that he was committed to working with local residents to make the premises a success. He indicated that all residents would be warmly welcomed. Photographs of the premises before and after refurbishment were circulated to the Sub-Committee.

Arising from a query, Mr Guy confirmed that on evenings when there was a full moon, special entertainment would be held in the premises, mainly as a reason to attract customers.

In responding to questions from a Member, Mr Guy confirmed that the old fencing surrounding the premises had been replaced. He also confirmed that he was happy with the three additional conditions recommended by Environmental Health and Safety and stated that he had approached a number of residents and provided them with his contact number. He would be keen to meet with local residents should they have any concerns in relation to the premises in order to try and resolve them, as he was committed to working with local residents to make the premises a success.

In responding to a question from a Member, Mr Guy confirmed that he did not intend to provide a restaurant at the premises, however, light foods such as home made chips, salads and freshly made cobs would be available for customers. Although he indicated that the establishment would be a family run public house, he stated that children would not be allowed in the premises after 9.00pm.

In responding to a number of questions, Mr Guy indicated that the premises had been bought in January 2014 and refurbishment had commenced in March 2014. He confirmed that he was aware of the location of the schools in the vicinity, however none of them referred to were in close proximity to the public house.

In responding to a further question, Mr Guy re-iterated comments previously made in that he did not intend to fully utilise the licensing hours applied for, however, wished to retain flexibility for special occasions and to be in a position to be competitive with other establishments in the surrounding area.

In concluding, Mr Guy referred to historical concerns in relation to noise related nuisance, however confirmed that a meeting had taken place with himself and an officer of Environmental Health and Safety to discuss measures to mitigate the noise emanating from the public house and particularly the beer garden located at the rear of the premises.

In summing up, Mr Glews acknowledged the measures which had been put in place to improve the premises and re-iterated concerns previously made in relation to noise related nuisance, especially noise emanating from the rear of the premises. He indicated that the public house was located in a highly residential area and although he would like to think the premises would be managed well, the location of the establishment was a concern. He reported that any extension of hours could potentially increase the number of complaints in relation noise nuisance.

In summing up, Mr Guy referred to the success of the premises that he had previously managed and indicated that he was committed to working with local residents to make the premises a success.

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 received for the variation of the premises licence in respect of The Red Lion, Brettell Lane, Stourbridge, be approved, in the following terms:-

Sale of Alcohol/Recorded Music

Monday – Saturday (inclusive)	10.00 – 01.00
Sunday	12.00 – 01.00

The following conditions will be attached to the premises licence:-

Conditions

- (1) The doors and windows must be kept shut during regulated entertainment except for access and egress.
- (2) No regulated entertainment in the outside areas.
- (3) Signage to be prominently displayed at exits requesting that customers leave in a quiet manner.

Reasons for Decision

This is an application to vary a premises licence to extend the hours for permitted sale of alcohol and the playing of recorded music. The current hours are 10.00am to 11.00pm Monday to Saturday, 12.00 noon to 10.30pm on Sundays. The variation sought is to permit these activities from 10.00am to 1.00am on Monday to Saturday and from 12.00 noon to 1.00am on Sundays. Closing would be at 1.30am.

Environmental Health have lodged a representation dated 22nd August, 2014 principally based on noise nuisance from the premises under previous management and the proximity of the public house to residential premises. The public house has been closed for many months and was bought around January 2014 and refurbished around March 2014.

On 14th August, 2014, a local resident also made a representation based on noise from the pub under previous management.

The Police have made no representations.

The Designated Premises Supervisor explained how much money had been invested in the pub, including new doors, windows, a covered walkway to the rear toilets and a back inner lobby to reduce sound escaping from the pub. He also explained that music would really be background only and that there would be no Karaoke. The sound system was new and had targeted sound to contain its noise where it was wanted.

Mr Guy accepted the three conditions proposed by Environmental Services. These are directly related to the reduction of noise from the premises and are clearly aimed at preventing noise nuisance. The Sub-Committee is satisfied that the planned management of the premises, together with the refurbishment and the three condition outlined above, will ensure that noise from these premises should be kept to a minimum in the future. The application is therefore granted.

The meeting ended at 11.00am.

CHAIR

Licensing Sub-Committee 1 - 25th November, 2014

Report of the Director of Corporate Resources

Application for Review of Premises Licence

Purpose of Report

1. To consider the application for the review of the premises licence in respect of Days Newsagents and Stores, 32 Madeley Road, Kingswinford, DY6 8PF.

Background

2. On the 9th November, 2005, CLB Lawyers made application on behalf of Days Newsagents and Stores, for the grant of a new premises licence, that application was considered by the Licensing Sub-Committee on the 19th December, 2005, following objections to the application from local residents, the Committee resolved that the premises licence be granted for the following days and times:

Sale of Alcohol

Monday/Tuesday/Thursday/Friday	08.00 until 19.00
Wednesdays and Saturdays	08.00 until 19.30
Sundays	07.00 until 13.00

3. On the 11th September, 2014, an application for the review of the premises licence was received from the Public Protection Manager (Food and Consumer Safety). A copy of that application has been circulated to Committee Members and interested parties in accordance with the Licensing Act, 2003.
4. 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.
5. Confirmation that the application has been served on the premises licence holder and relevant authorities has been received.
6. The current premises licence holder is Mr. Narendra Jerambhai Patel.
7. This matter was due to be considered by the Committee on the 4th November 2014. Due to unforeseen circumstances that hearing was cancelled and the matter was deferred until the 25th November 2014.

8. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

9. There are no financial implications to the Council.

Law

10. The law relating to the review of licences is governed by the Licensing Act, 2003 Section 52(1).

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
11. Before determining the application, the authority must hold a hearing to consider it and any relevant representations.
12. 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.
13. 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.

14. Subsection (3) is subject to sections 19,20 and 21 (requirement to include certain conditions in premises licences).
15. 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.

16. 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).
17. 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.
18. 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.
19. 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.
20. 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
21. Pursuant to schedule 5 part 1, section 8(2)
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

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

Recommendation

- 25. That the Sub-Committee determine the review of the premises licence in respect of Days Newsagents and Stores.



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DIRECTOR OF CORPORATE RESOURCES

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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
Days Newsagents & Stores, 32 Madeley Road, Kingswinford, DY6
8PF.

Interested parties and relevant authorities may make
representations in writing to the Licensing Office, Law and
Governance, Unit 1, Hurst Business Park, Narrowboat Way,
Brierley Hill, West Midlands, DY5 1UF between 12th September
2014 and 9th October 2014.

The Review of Licence has been requested by a relevant authority
on the grounds of

- Prevention of crime and disorder

The details of the grounds for review may be inspected at the
Licensing Offices (address as above) between the hours of
8.30am and 4.00pm (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 1 – 25th November 2014

Report of the Director of Corporate Resources

Application for House to House Collections Licence

Action for Blind People/National Deaf Children's Society/Action for Hearing Loss – Personal Fundraising Services

Purpose of Report

1. To consider the application for the grant of a House to House Collection Licence made by Mr Thomas Vaughan, of Personal Fundraising Services on behalf of the charities known as Action for Blind People/National Deaf Children's Society/Action for Hearing Loss.

Background

2. On the 20th June 2014, and the 19th August 2014, Mr Thomas Vaughan of Personal Fundraising Services made application for the grant of a House to House Collection Licence in respect of the charities known as Action for Blind People/National Deaf Children's Society/Action for Hearing Loss. Copies of those applications along with the relevant accounts from the various charities have been forwarded to Committee Members and interested parties.
3. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all House to House Collection applicants to submit income and expenditure accounts for the previous financial year.
4. In recent years applications for House to House Collections have been received from independent commercial companies undertaking collections on behalf of specific charities. Therefore in November 2009, the Council introduced a further policy that all applicants for House to House Collection Licences be required to submit with the application income and expenditure accounts for the previous financial year of the charity for which the collection is being made and also for the company or organisation making the collection. This is to ensure that a substantial amount of the monies collected are used for charitable purposes.
5. Personal Fundraising Services Limited confirmed that they have only been trading since the 28th February 2014, and therefore do not have the requisite accounts. These applications were delay due to the Licensing Team awaiting the accounts from the various charitable organisations.

6. Both applications were also circulated to the Directorate of the Urban Environment and the West Midlands Police, no objections were received from either of the agencies.
7. This application falls within the Council's recent responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

8. There are no financial implications.

Law

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

- (f) that the applicant or holder of the licence has refused or neglected by furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the fore-going paragraphs.
11. If the Committee refuse to grant a licence or revoke a licence which has been granted. There is a right of appeal within 14 days to the Secretary of State against the refusal or revocation of licence.

Equality Impact

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

Recommendation

14. That the Committee consider the applications for House to House Collection Licences in respect of Personal Fundraising Services.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers