

## Meeting of the Licensing Sub-Committee 3

Tuesday 3<sup>rd</sup> November, 2020 at 10.00am

### Microsoft Teams

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### **Agenda - Public Session**

**(Meeting open to the public and press)**

1. Chairs Announcements

Welcome to this virtual meeting. This is a formal Council Sub-Committee. The public proceedings will take place live on the Internet.

It will assist with the conduct of business if participants speak only when invited. I shall adjourn the meeting if necessary if protocol is not observed.

Members of the public are welcome to view the proceedings but should not make contributions until they are invited in line with our procedure.

All Members of the Sub-Committee have received the reports and associated documents in advance and had the opportunity to read them. The public reports are published on the Internet.

All participants should mute their microphones and video feed when they are not speaking.

Please remember to unmute your microphone and switch on your video feed when it is your turn to speak. Speak clearly and slowly into your microphone.

Anyone wishing to speak should indicate using the 'raise your hand' button on Microsoft Teams. I will invite people to speak at the appropriate time.

If you do not have the hand button, please type your request to speak in the chat function. Please note that the 'chat' function is monitored and has a full audit trail and anyone found to be misusing this function will be removed from the meeting.



Please note that when the Sub-Committee adjourns to make a decision, all participants except our Legal Advisor and Democratic Services Officers will be asked to leave the meeting. Our decision and the reasons for it will be communicated to all parties as soon as possible after the hearing.

Finally I ask for everyone's patience with the use of the technology. I apologise in advance if we experience any unforeseen difficulties which we shall try to resolve expediently.

I shall now follow the agenda items as listed.

2. Apologies for absence.
3. To report the appointment of any substitute members serving for this meeting of the Committee.
4. To receive any declarations of interest under the Members' Code of Conduct.
5. To confirm and sign the minutes of the meeting held on 10<sup>th</sup> March, 2020, as a correct record.

***The following application is to be considered under the provisions of the Licensing Act 2003:-***

6. [Application for Grant of a New Premises Licence – The Queens Cross \(formerly known as The Earl of Dudley\) 135, Wellington Road, Dudley \(Pages 1 - 5\)](#)
7. To consider any questions from Members to the Chair where two clear days notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).



**Chief Executive**

**Dated: 26<sup>th</sup> October, 2020**

**Distribution:**

Councillor A Taylor (Chair)  
Councillors K Finch and S Greenaway



**Please note:**

- The Chair reserves the right to adjourn the meeting, as necessary, if there are any disruption or technical issues.
- Members of the public can view the proceedings by clicking on the link provided on the agenda.
- The public proceedings may be recorded by the Council to view on our website. Recording/reporting is only permitted during the public session of the meeting.
- Information about the Council and our meetings can be viewed on the website **[www.dudley.gov.uk](http://www.dudley.gov.uk)**
- Any agendas containing reports with exempt information should be treated as private and confidential. It is your responsibility to ensure that information containing private and personal data is kept safe and secure at all times. Confidential papers should be securely disposed of. If you choose to retain the documents you should ensure that the information is securely stored and destroyed within six months.
- **Elected Members can submit apologies by contacting Democratic Services: Telephone 01384 815238 or E-mail [Democratic.Services@dudley.gov.uk](mailto:Democratic.Services@dudley.gov.uk)**



**Minutes of the Licensing Sub-Committee 3  
Tuesday, 10<sup>th</sup> March, 2020 at 10.00 am  
In the Council Chamber, the Council House, Dudley**

**Present:**

Councillor A Taylor (Chair)  
Councillors S Greenaway and E Taylor

**Officers:-**

B Hughes – Assistant Team Manager Waste and Fleet Care (Directorate of Public Realm), R Clark – Principal Solicitor and K Buckle – Democratic Services Officer (Both Directorate of Finance and Legal).

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1. **Apology for Absence**

An apology for absence from the meeting was received on behalf Councillor K Finch.

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2. **Appointment of Substitute Member**

It was reported that Councillor E Taylor had been appointed as a substitute Member for Councillor K Finch for this meeting of the Sub-Committee only.

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3. **Declarations of Interest**

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

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4. **Minutes**

**Resolved**

That the minutes of the meeting held on 1st May, 2018, be approved as a correct record and signed.



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5. **Application for Grant of a New Premises Licence – McDonald’s Restaurant, Birmingham New Road/Ivy House Lane, Bilston**

A report of the Director of Public Realm was submitted on an application for the grant of a new premises licence in respect of McDonald’s Restaurant, Birmingham New Road/Ivy House Lane, Bilston.

The following persons were in attendance at the meeting:

K Turley, D Jenkins and S Moore of West Midlands Police – Observers  
Councillor P Drake and three local residents – Objectors  
L Chambrydes – Barrister representing McDonald’s Restaurant  
C Perry – McDonald’s Restaurant Operations Manager  
R Beckett – McDonald’s Restaurant Franchisee

Following introductions the Assistant Team Manager (Waste and Fleet Care) presented the report on behalf of the Council.

A local resident on Birmingham New Road made representations and asserted that opening the restaurant for 24 hours, 7 days each week, would increase crime in the immediate area, based on the crime UK website for the last two years, particularly offences had been committed in relation to 24 recorded cases of anti-social behaviour and 68 theft cases from the garage opposite, as well as other more serious offences. It was accepted that there had been only a few crimes reported from the McDonald’s site. It was also asserted that the McDonald’s Restaurant was closely linked to the possibility of an increase in public nuisance including litter and light and smell pollution as well as the possible noise from cars all night, in a residential area.

A local resident who resided within close proximity to the premises made representations, stating that her objections were based on vehicle and people noise from the car park, as well as litter nuisance. She particularly highlighted problems with McDonald’s litter as opposed to litter from other local takeaways. Questions were asked on the availability of Closed Circuit Television (CCTV) for the car park and Automatic Number Plate Recognition technology (ANPR). The effectiveness of the anti-social behaviour to address those issues was referred to.

Another local resident also expressed similar concerns to those outlined above, and made particular reference to the fact that the Council’s Development Control Committee who had refused the planning application following the objection of 25 local residents, however it was noted that the decision had been subsequently overturned on Appeal. Mention was made of the extremely bright lighting that was reflected from the business premises into the homes of local residents during night time and in some cases that light disturbed sleep.

Members considered further objections similar to those above from a local Ward



Councillor. A break for the residents from all forms of pollution was requested as it was stated that this would be increased from 11.00pm with the sale of refreshments after that time.

It was asserted that there was a local problem with young children becoming inebriated in two local parks, and that should McDonald's opening times be extended to those requested that would provide those youths with further night time facilities. It was asserted that a closure time of 11pm would be more suitable for the area in question.

Mr Chambrydes Barrister for the Applicant then presented the case, on the applicants behalf, stating that he welcomed the local residents comments and their passion for their area.

Reference was made to the Licensing Act Guidance that advised Councils to be guided by all responsible Authorities including the Police, Environmental Health, the Licencing Authority and Public Health.

The fact that the Environmental Health Officer specifically stated that he had no objections to the Application were alluded to and a noise expert had also been commissioned for the Appeal to the Planning Inspectorate, and found no discernible impact on the local noise from the premises in question.

It was also noted that the police had raised no objections, however there were three Officers present merely observing the proceedings.

It was asserted that the area was not exclusively residential, but was situated on a dual carriageway adjacent to a petrol station and other restaurants and shops.

It was stated that there were 20 cameras on the premises, internal and external, and that those were monitored by a "staff safe system" that allowed operators to use a tannoy to the premises should inappropriate behaviour be observed. Support was triggered by local staff pressing a panic button. Staff were also trained to engage should customers behave inappropriately. It was also stated that staff had a specific litter pick system on their premises, and noise assessments had been carried out on the machinery in the premises.

Mr Chambrydes also stated that the local risk assessment of the premises had identified that the hours of 5pm to 9pm were the peak times for young people to access the premises, and there were Security Industry Authority (SIA) registered door staff present between those times on Fridays and Saturdays. In terms of security, the premises operated an ongoing risk assessment that was flexible and would be willing for a condition to be included on the licence that the premises would maintain an active and ongoing risk assessment, with a view to reviewing the SIA door staff on the premises.

Feedback on the extent of the litter pick route was also welcomed from local residents.



In response those objectors present stated that the staff do not engage with local residents, that the tannoy was very loud and neighbours had complained about this, that the lights were frequently left on after 11pm despite complaints and that litter was not picked up from the road opposite the premises. The fact that the vicinity was predominantly a residential area was noted together with the fact that the retail facilities nearby closed during the night.

Following summing up the parties then withdrew from the meeting to enable the Sub-Committee to determine the Application.

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

## **Resolved**

That, following consideration of the information contained in the report and presented at the meeting, the application for grant of a new Premises Licence in respect of McDonald's Restaurant, Birmingham New Road/Ivy House Lane, Bilston be granted in the following terms:-

### **Late Night Refreshment.**

Monday to Sunday inclusive                      23.00 – 05.00

### **Hours Premises are open to the public**

Monday to Sunday inclusive                      05.00 – 05.00

### **Additional Condition**

An active risk assessment of the premises shall be regular and ongoing with a view to reviewing the safety of staff and customers, and specifically the use of SIA registered door staff on the premises.

### **Amended Condition**

The Sub Committee also amends the operating schedule to change the condition relating to CCTV in order that the provision of CCTV shall be to officers of all responsible authorities (not just the police) at their request.

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The meeting ended at 12pm

CHAIR



LSBC/4

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## **Licensing Sub-Committee 3 – 3<sup>rd</sup> November 2020**

### **Report of the Director of Public Realm.**

### **Application for Grant of a New Premises Licence**

### **The Queens Cross (formerly known as The Earl of Dudley) 135, Wellington Road, Dudley, DY1 1UA**

#### **Purpose**

1. To consider the application for the grant of a new premises licence in respect of the premises to be known as The Queens Cross, 135 Wellington Road, Dudley, DY1 1UA.

#### **Recommendation**

2. That the Sub-Committee determine the application for the grant of a premises licence in light of the representations raised.

#### **Background**

3. On the 8<sup>th</sup> September 2020, an application for the grant of a new premises licence was received from Harrison Clark Rickerby's Solicitors on behalf of Mrs Fiona Tennant, in respect of the premises to be known as The Queens Cross, 135 Wellington Road, Dudley, DY1 1UA. A copy of that application has been forwarded to the Committee Members and interested parties in accordance with the Licensing Act 2003.
4. The application had the following documents enclosed:-
  - Plan of the premises
  - Correct fee
  - Consent of the DPS



5. The application for a premises licence is as follows:

**Supply of Alcohol/Live Music/Recorded Music**

Sunday to Thursday 11.00 until 23.00  
Friday and Saturday 11.00 until 00.30

**Late Night Refreshment**

Friday and Saturday 23.00 until 00.30

**Hours Open to the Public**

Sunday to Thursday 11.00 until 23.30  
Friday and Saturday 11.00 until 01.00

From end of permitted hours on New Years Eve to commencement of permitted hours on New Years Day.

6. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
7. Representations have been received from two Local Ward Councillors, Environmental Health and Trading Standards, the West Midlands Police and the Licensing Authority.

Copies of all representations have been forwarded to the Applicant, Committee Members and Interested parties in accordance with the Licensing Act 2003.

**Finance**

8. There are no financial implications.

**Law**

9. 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.
10. 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 necessary for the promotion of the Licensing objectives.
11. Pursuant to Section 18 (4) the steps are:-
- (a) to grant the licence subject to:-
    - (i) such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
    - (ii) any condition which must under section 19, 20 or 21 be 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
12. 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
13. Pursuant to section 23(2) where relevant representations were made in respect of the application, the notice under subsection (1)(a) must state the authority's reasons for its decisions as to the steps (if any) to take under section 18(3)(b).
14. Pursuant to section 23(3) where an application is rejected under section 18, the licensing authority must forthwith 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 for the police area or each police area in which the premises are situated
15. 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)
16. 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.
17. In pursuance of regulation 26(2) of the Licensing Act 2003 (Hearing Regulations 2005) the Licensing Authority must make its determination within 5 working days of the conclusion of the hearing.
18. If the Licensing Authority refuse to grant the application, there is a right of appeal. The appeal under this part must be made to a Magistrates' Court pursuant to schedule 5 section 9 of the Licensing Act 2003.

### **Equality Impact**

19. This report takes into account the Council's policy on equal opportunities.
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.



## **Human Resources/Organisational Development**

22. There are no organisational development/transformation implications.

## **Commercial/Procurement**

23. There are no commercial/procurement implications.

## **Health, Wellbeing and Safety**

24. 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.



**Garry Dean**  
**Acting Director of Public Realm**

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## **Appendices**

None

## **List of Background Documents**

None

