

Agenda

Licensing Sub Committee 1

Monday, 21 June 2021 at 10.00 am
At Council Chamber, Sandwell Council House

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

1 Apologies for Absence

Members to declare any interests in matters to be discussed at the meeting.

2 Declarations of Interest

Members to declare any interests in matters to be discussed at the meeting.

3 Minutes

7 - 12

To confirm the minutes of the meeting held on 22 March 2021 as a correct record

4 Application for the grant of a new Premises Licence at Old Mill, Rydding Lane, West Bromwich, B71 2EX

13 - 78

Members to consider the application for the grant of a new Premises Licence at Old Mill, Rydding Lane, West Bromwich.



D Stevens

Chief Executive

Sandwell Council House

Freeth Street

Oldbury

West Midlands

Distribution

Councillor Allen (Chair)

Councillors Gill, Hussain, Jones, Piper, Rouf and Singh

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Minutes of Licensing Sub Committee 1

**Monday 22 March at 1.00pm
Online Virtual Meeting**

Present: Councillor Allen (Chair);
Councillors Dhallu, E M Giles, O Jones and Mabena.

Officers: Usha Devi (Senior Licensing Officer)
Paul Arnold (Licensing Enforcement Officer)
David Elliot (Solicitor)
Shane Parkes (Democratic Services Officer)
Connor Robinson (Democratic Services Officer)

6/21 **Apologies for Absence**

No apologies were received.

7/21 **Declarations of Interest**

No interests were declared at the meeting.

8/21 **Minutes**

Resolved that the minutes of the meeting held on 8 February 2021 be confirmed as a correct record.



9/21 **Exclusion of Public and Press**

Resolved that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order, 2006, relating to any individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Matters Delegated to the Sub Committee to consider Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver's/Vehicles/Operators Licensing related matters

10/21 **Application for the renewal of a Private Hire Driver's Licence in respect of Mr M R.**

Members considered an application for the renewal of a Private Hire Driver's Licence in respect of Mr M R.

Mr M R was in attendance, accompanied by his daughter, and confirmed he had received a copy of the report.

Mr M R had previously attended Committee on four occasions; firstly in 2009 where his application was granted with a warning, secondly in 2013 where his application was renewed however suspended for two-months, thirdly in 2017 where after deferment to obtain further information, in the fourth attendance the private hire licence was re-instated after an appeal.

The Sub Committee was advised that Mr M R had received a relevant conviction motoring offence MS90 after failure to give information as to identify of driver, along with a failure to declare the conviction within the required time period, in accordance with the conditions of his licence.



Mr M R, with the support of his daughter, explained that he had not found out about his conviction until receiving his letter of right to appeal from the Magistrates. Mr M R explained that he had received the letter to notify him of the appeal while he had been away on holiday, at which point, he argued, it was his first indication that he had committed an offence. Mr M R explained how he did not fully understand the nature of the offence until his appearance at his appeal at the Crown Court which had been deferred from June until early September 2020. On having his appeal dismissed at the Crown Court Mr M R notified the Licensing Office.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

The Sub Committee was minded to revoke Mr M R's Private Hire Driver's Licence. The motoring offence MS90 was classified as a major traffic offence and a serious offence in the Council guidelines. The starting point in the guidelines was revocation. The conviction of the offence and subsequent dismissal of the appeal meant the conviction remained upheld. The driver having failed to notify the Licensing Office within the allotted time was also taken into account.

Resolved that the Private Hire Driver's Licence in respect of Mr M R be revoked.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines, relevant case law and the Human Rights Act 1998.

Mr M R would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.



11/21

Application for the renewal of a Private Hire Drivers Licence in respect of Mr R K.

Members considered an application for the renewal of a Private Hire Driver's Licence in respect of Mr R K.

Mr R K was in attendance at the meeting, accompanied by his legal representative, and confirmed that he had received a copy of the report.

Mr R K had previously attended Committee on two occasions, firstly in 2017 where his licence was renewed with a two-month suspension, and secondly where his licence was renewed.

The Sub Committee was advised that Mr R K had breached the conditions of licence after being convicted a second time for plying for hire and no insurance. Mr R K had also failed to notify the Licensing Office of convictions in accordance with the conditions of his licence.

Mr R K's legal representative gave an account on behalf of his client, regarding the second plying for hire and no insurance conviction. Mr R K had picked up passengers in Birmingham after being approached by them to take them to a destination within Birmingham, at the conclusion of the journey the passengers introduced themselves as enforcement officers. Mr R K had immediately confessed and admitted to the offence.

The Committee was informed that, due to the pandemic, Mr R K had not received any notification from Birmingham City Council until four to five months after the offence. On the first occasion to do so Mr R K had pleaded guilty to the charge.

The reason Mr R K had not informed the Licensing Office within the required period was because of the delay from Birmingham City Council to issue the paperwork. Once Mr R K had received the papers he had notified the Licensing Office.



The Committee noted that Mr R K had been a driver for over 10 years with no complaints.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

The Committee was minded to revoke Mr R K's Private Hire Driver's Licence. The policy was clear on matters to do with plying for hire offences, just one conviction within three years would result in a suspension for three years, if the driver had more than one conviction over a period of five years a licence would not be granted. Similarly, with insurance related offences a licence would not be granted if an applicant had more than one conviction within the last ten years.

Resolved that the Private Hire Driver's Licence in respect of Mr R K revoked.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines, relevant case law and the Human Rights Act 1998.

Mr R K would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

Meeting ended at 16.20

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Report to Licensing Sub Committee 1

Monday 21st June 10.00am

Subject:	Application for the grant of a new Premises Licence at Old Mill, Rydding Lane, West Bromwich, B71 2EX
Director:	Interim Director – Borough Economy – Nicholas Austin
Contact Officer:	Geeta Bangerh Licensing Officer licensing_team@sandwell.gov.uk

1. Recommendations

1. Consider the application for the grant of a new premises licence under section 17 of the Licensing Act 2003 in respect of Old Mill, Rydding Lane, West Bromwich, B71 2EX.
2. Each application must be considered on its merits taking into account the evidence presented at the hearing, and the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Licensing Policy. The options that can be considered once evidence has been heard are detailed at section 5.


2. Reasons for Recommendations

- 2.1 The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy and to give reasons for their decision.



- 2.2 To consider an application for the grant of a new premises licence in respect of Old Mill, Rydding Lane, West Bromwich, B71 2EX, following representations from Police Licensing Officer, Fire Service, Councillors and Local Residents objecting to the grant of the application due to concerns that the four licensing objectives would be undermined.

3. How does this deliver objectives of the Corporate Plan?

	<p>A strong and inclusive economy Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.</p> <p>It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.</p>
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4. Context and Key Issues

- 4.1 Under the Licensing Act 2003, a responsible authority or any other person may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
- 4.2 Representations have been received from the Police Licensing Officer, Fire Service, Local Councillors and Local Residents. A copy of representations are attached at Appendix 2.

CURRENT POSITION

- 4.3 An application has been made by UK Wide Real Estate Limited for the grant of a new premises licence.
- 4.4 A copy of the application is attached at Appendix 1



- 4.5 The licensable activities this application is for is for Play, Films, Live Music, Recorded Music, Performance of Dance, Anything Similar to that falling within the previous activities (On Premises) Monday - Sunday 08.00 - 02.00. Late Night Refreshment (On Premises) Monday - Sunday 23.00 - 02.00. Sale of Alcohol (On/Off Premises) 08.00 – 02.00.
- 4.6 The proposed hours the premises will be open to the public Monday - Sunday 07.00 - 02.30.
- 4.7 The premise will be a Public House Bar and Grill, and it will be predominantly offering Breakfast, Lunch and Dinner. The premises will also be used for private functions such as Weddings, Birthdays, Funerals.
- 4.8 **Operating Schedule/Proposed Conditions**

General

The Premises Licence holder shall ensure CCTV will be digital recorded for up to 28 days and will be made available on request to all licensing and responsible authorities. There will be a member of staff on duty who is trained and able to show and download images from the system during opening hours. It will be in recording operation during opening hours and it will cover all licensable activity areas of the premises.

The Premises Licence holder shall ensure the incident book will be at the premises and will record all incidents that occur inside or immediately outside the premises, regardless of whether any of the emergency services have been called. The record of the incident will include details of the member of staff involved in the incident and the actions taken. Regular liaison with police will be encouraged to ensure cross-reference of venue related incidents. This incident book can be inspected at any reasonable time by all responsible authorities.



The prevention of crime and disorder

The Premises Licence holder shall ensure CCTV shall be installed SSAIB or NSI registered installer and to meet the requirements of British standard BSEN 50132 and GDPR compliant. A camera will be installed at the premises to cover access and egress points.

The Premises Licence holder shall ensure all staff will be trained on signs of drug abuse both on persons and how to recognise signs of use on the premises. Training will be given on signs of persons drinking to excess. All training will be recorded on the premises and made available to responsible authorities immediately on request.

A refusal book shall be kept on the premises detailing the time and date of refusal and the reasons the refusal was made. The book will be kept on the premises and handed to any responsible authority on request.

Public Safety

The Premises Licence holder shall ensure no drinking vessels are to be taken, at any time, beyond the outside perimeter of the premises and the Premises Licence holder must ensure notices are displayed at all designated outside smoking or drinking areas and to inform patrons of the restriction.

The prevention of public nuisance

The Designated Premises Supervisor shall ensure that noise levels arising from the premises including the smoking areas will not disturb the local residents.

The Premises Licence holder shall ensure a wind down period will begin 30 minutes before last drinks are served. This shall encourage customers to leave the premises and reduce noise when leaving the premises by means of opening and closing of the main door as they leave.



There will be signage displayed to encourage customers to leave quietly around the location and at the exits and smoking areas.

The Premises Licence holders operate an approved taxi operator and shall order taxis in advance to ensure customers are away from the premises quickly.

The Protection of children from harm

The Premises Licence holder will adopt a “Challenge 25” policy and only photographic ID including a driving licence, passport, student card or PASS scheme card will be accepted as proof of age. “Challenge 25” signage will be prominently displayed at the premises.

The Licence holder shall train staff on different ID methods and this training will be kept and maintained at the premises.

The staff will be trained in signs of underage drinking and this will be recorded in the training book and kept at the premises and can be inspected on request by any responsible authority.

4.9 A location map of the premises is attached at Appendix 3.

4.10 Consultation (customers and other stakeholders)

A notice has been published in a local paper and a public notice has been displayed at the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority, detailing a closing date for these to be received. Details of the application were also published on the Council’s website.

5. Alternative Options

5.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

- to grant the licence subject to conditions consistent with the operating schedule accompanying the application, and any mandatory conditions which must be included in the licence
- to exclude from the scope of the licence any of the licensable activities to which the application relates;



- to refuse to specify a person in the licence as the premises supervisor;
- to reject the application

5.2 Conditions may be altered or omitted, or any new condition added.

5.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premise, it would not be appropriate to impose similar duties.

5.4 Members of the Sub Committee should be advised that the applicant, or any other person who made relevant representations in relation to the application, may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

6. Implications

Resources:	<p>There are no direct strategic resource implications associated with this application.</p> <p>In respect of premises licence applications, we do not foresee any issues in respect of sustainability of proposals.</p> <p>The application relates to a privately owned property.</p>
Legal and Governance:	<p>Members of the Licensing Sub Committee when making their decision on the application must take into account the four licensing objectives, the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy. The applicant and those who have made relevant representations have the right to appeal the decision made by the Licensing Sub Committee to the Magistrates Court, so the Committee are asked to give reasons for their decision wherever possible.</p>



	Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.
Risk:	<p>The Police are a statutory consultee for all Licensing Act 2003 applications. Prevention of Crime and Disorder is one of the four licensing objectives and applicants have to demonstrate how they will achieve this objective by volunteering measures in the operating schedule submitted with the Licence application.</p> <p>The Police, Fire Service, Local Councillors and Local Residents have made a representation to this application.</p> <p>Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public online, in line with data protection protocols.</p>
Equality:	<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>The operators of this premises are responsible for complying with all relevant legislation.</p>
Health and Wellbeing:	This is not applicable to applications for premises licences submitted under the Licensing Act 2003.
Social Value	This is not applicable to applications for premises licences submitted under the Licensing Act 2003.

7. Appendices

- Appendix 1 – Licence application with site plan
- Appendix 2 – Representations
- Appendix 3 – Location Plan



8. Background Papers

- Sandwell Metropolitan Borough Council Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003
- The Licensing Act 2003 (Hearings) Regulations 2005



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of the Local Government Act 1972.

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