

# Report to Licensing Sub Committee 1

**19 May 2022 at 10.00am**

<b>Subject:</b>	Application for the Review of a Premises Licence at Dylans Drink Shop, 627 Bearwood Road, Smethwick B66 4BL
<b>Director:</b>	Director – Borough Economy – Alice Davey
<b>Contact Officer:</b>	Kiran Dhesi (Licensing Officer) licensing_team@sandwell.gov.uk

## 1. Recommendations

- 1.1 Consider the review application submitted by the Chief Constable of West Midlands Police for review of the premises licence in respect of Dylans Drink Shop, 627 Bearwood Road, Smethwick B66 4BL. To consider what steps are appropriate for the promotion of the licensing objectives and consider any relevant representations.
- 1.2 Review any interim steps already in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.


## 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 review of a premises licence in respect of Dylans Drink Shop, 627 Bearwood Road, Smethwick B66 4BL following a review application received from West Midlands Police stating that operation of these premises undermines three of the



Licensing objectives these being: The Prevention of Crime and Disorder, Public Safety and The Protection of Children from harm.

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

	<p><b>A strong and inclusive economy</b> 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 On 24<sup>th</sup> March 2022 an application for the review of the premises licence was made under section 51 of the Licensing Act 2003 by the Chief Constable of West Midlands Police who has certified that that West Midlands Police contend the operation of this shop undermines the following Licensing objectives contained within the Licensing Act 2003, The Prevention of Crime and Disorder, Public Safety and The Protection of Children from harm. A Copy of the application is attached at Appendix 1 to this report.

4.3 West Midlands police have submitted representations on two previous occasions, West Midlands Police raised a representation to TEN's submitted by the Premises in December 2021 and raised a representation to the granting of the Premises Licence in January



2022. Copies of both representations are attached to the application at appendix 2 and 3.

- 4.4 A copy of the review application and certificate was served on the Premises Licence Holder.
- 4.5 An email was received by the Licensing Office on 21<sup>st</sup> April sent by the Premises Licence holder with a letter attached . This was forwarded to the Police Licensing Officer. A Copy of this letter is attached at Appendix 4
- 4.6 Under Section 51 (3) (c) of the Licensing Act 2003 and Regulation 22 of the Licensing Act (Premises Licence) Regulations 2005 a Responsible Authority or Interested Party has 28 consecutive days starting with the day after the application for review has been submitted to make representations.
- 4.7 The relevant notices about this full review hearing have been served on all relevant parties as required. The Licensing Authority must hold a hearing within 20 working days beginning with the day after the deadline for receipt for representations outlined in 4.6 above as required by schedule 1 of the Licensing Act (Hearings) Regulations 2005.
- 4.8 The decision made following review of the premises licence takes place after 21 days of the decision being notified in writing to the Premises Licence Holder, Responsible Authority or Interested Party unless they appeal to the Magistrates Court within that time.

## 5. CURRENT POSITION

- 5.1 The licence was granted on 11 January 2022
- 5.2 The permitted licensable activities are the retail sale of alcohol for 24 hours Monday to Sunday. The permitted opening hours are 24 hours Monday to Sunday.
- 5.3 A copy of the current licence is attached at Appendix 5.



5.4 The location of the premises can be seen on the location map provided which is attached at Appendix 6.

## 6. Operating Schedule

### General

The Designated Premises Supervisor shall ensure that all existing staff, new staff, supervisors and managers receive an induction in the legality and procedure of alcohol sales (including Sec 141 selling to drunks and section 146 selling to children), prior to undertaking the sale of alcohol. This training will include the lawful selling of age restricted products, refusing the sale of alcohol to a person who is drunk or appears to be intoxicated, the contents of the premises licence; times of operation, licensable activities and all conditions. Verbal refresher training will be undertaken at intervals not to exceed 12 months. Training documents shall be signed and dated, and training records be made available to an authorised officer of the Licensing Authority or the Police upon reasonable request. The records will be retained for at least 12 months.

An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence and/or is relevant to the licensing objectives.

Documented delegation of authority to sell alcohol will be maintained at the premises and made available for inspection by police or other authorised officer.

A reduction in the shelf space for alcohol products to 50% of the total shop shelf space. The remaining 50% being for the sale of non-alcohol related goods.



## The prevention of crime and disorder

Members of staff involved with the sale of alcohol will be trained every 3 months for a period of 2 years from the grant of the Premises Licence on the BIIAB Level 1 Award in Responsible Alcohol Retailing, and records of such training will be retained at the premises.

Two external CCTV cameras will be installed at the front of the premises.

The CCTV system can be viewed remotely.

A fully working and maintained CCTV system capable of recording and storing images must be installed on the premises.

The CCTV system will record at all times the premises are open to the public for licensable activity.

CCTV images will be stored for a minimum of 28 days with date & time stamping.

As a minimum the CCTV will cover all entry and exit points, both sides of all areas where the sale of alcohol takes place.

A person conversant with the retrieval and down-loading of CCTV footage must be present on the premises at all times it is open to the public. All recordings must be made available to an officer from a responsible authority upon written request and in line with the provisions of the Data Protection Act 1998.

Clear signage will be displayed that CCTV is in operation

A buzzer entry system will operate between midnight and 0600hrs and a 1 person entry limit at any one time during that time frame.



Entry to the premises by the public between midnight and 06.00hrs will not be permitted unless there are 2 members of staff working. If less than 2 people are working in the shop, then sales will take place through the 'Night Service Hatch' in the locked front door.

## **Public Safety**

The Premises Licence holder shall ensure all exit doors shall be easily openable and shall not require the use of a key, card, code or similar means.

Doors at exits shall be regularly checked to ensure that they function satisfactorily and a record of the check will be kept.

Clear gangways to exits will be maintained.

Curtains, hangings and temporary decorations are located so as not to obstruct exits, fire safety signs or fire-fighting equipment.

## **The prevention of public nuisance**

The Premises Licence holder shall ensure signs will be placed in a prominent place at all exit points of the premise requesting patrons to respect the neighbours and leave quietly and dispose of litter in the bins provided.

Litter shall be prevented at all times and where identified regularly cleared from the immediate vicinity of the premises.

## **The Protection of children from harm**

The Premises shall ensure a 'Challenge 25' policy will be adopted.

Challenge 25 signage will be displayed at the point of sale and at least one other prominent position within the premises.



Acceptable Proof of Age Identification will be: Passport, Photo Driving Licence, PASS card , British Military ID, National ID card or any other document/ID approved by the Home Office.

A refusals register shall be maintained and be made available for inspection to Police or authorised officers upon request. The Designated Premises Supervisor shall regularly check the register to ensure it is being consistently used by all staff.

No unaccompanied children to be permitted to remain on the premises between 22.00hrs and 06:00hrs.

## 7. Consultation (customers and other stakeholders)

7.1 The Licensing Team have displayed a public notice on or near the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority in respect of the full review, detailing a closing date for these to be received. Details of the application have also been published on the Council's website.

7.2 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

## 8. Alternative Options

8.1 The Licensing Authority on making its decision by virtue of Section 52 of the Licensing Act 2003 may

- a) Take no action
- b) Modify the conditions of the Premises Licence including altering them omitting them or adding a new condition.
- c) Exclude a Licensable Activity from the scope of the Licence



- d) Remove the Designated Premises Supervisor
- e) Suspend the Licence for a period not exceeding 3 months
- f) Revoke the Licence

8.2 Modification of existing conditions/s can include alteration, omission or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

8.3 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.

## 9. Implications

<b>Resources:</b>	<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>
<b>Legal and Governance:</b>	<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> <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.</p>





<b>Risk:</b>	<p>The Police have made a representation as an interested Party in connection with the review Application under the Prevention of Crime and Disorder, Public Safety and the Prevention of Children from Harm Licensing Objectives.</p> <p>The Hearing and information connected with it shall be in the public domain subject to the requirements of the following –</p> <p>The requirements of GDPR and the Data Protection Act 2018, and</p> <p>Regulation 14 of the Licensing Act 2003 (Hearings Regulations) 2005 which allows the sub-committee to resolve to go into private session for all or any part of the proceedings, if they consider the public interest is best served by doing so.</p>
<b>Equality:</b>	<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>
<b>Health and Wellbeing:</b>	<p>The benefits of premises being able to conduct licensable activities are subject to the promotion of the Licensing Objectives outlined in the report.</p>
<b>Social Value</b>	<p>The benefits of premises being able to conduct licensable activities are subject to the promotion of the Licensing Objectives outlined in the report</p>

## 10. Appendices

- Appendix 1 – Review Application
- Appendix 2 – Representation to TEN
- Appendix 3 – Representation to Grant application
- Appendix 4 – Letter from Premises Licence holder
- Appendix 5 – Current Premises Licence
- Appendix 6 – 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

