

CITY OF  
WOLVERHAMPTON  
COUNCIL

# Statutory Licensing Sub-Committee

29 June 2020

<b>Report title</b>	<b>Licensing Act 2003 – Application for a Premises Licence in respect of First Class Lounge, 6 School Street, Wolverhampton, WV1 4LR</b>	
<b>Wards affected</b>	St Peters	
<b>Accountable director</b>	Ross Cook, City Environment	
<b>Originating service</b>	Licensing Services	
<b>Accountable employee</b>	Debra Craner	Section Leader
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## Recommendation for decision:

To submit for consideration by the Statutory Licensing Sub-Committee an application for a new premises licence.

## **1.0 Purpose**

1.1 To submit for consideration by the Statutory Licensing Sub-Committee an application for a new premises licence.

## **2.0 Background**

2.1 An application was received on the 20 February 2020 from Erastus Ndi for a premises licence in respect of First Class Lounge, 6 School Street, Wolverhampton, WV1 4LR. A copy of the application is attached at Appendix 1.

2.2 The premises are in the St Peters Ward and a location plan is attached at Appendix 2.

2.3 The application is in respect of provision of Live Music, Recorded Music, Late Night Refreshment and Supply of Alcohol on the Premises.

2.4 This premises are situated within the Cumulative Impact Zone. A copy of the policy and the area which it covers is attached at Appendix 3.

2.5 It is the understanding of the Licensing Authority that the application for this premises licence has been properly made. The statutory requirement to give notice of the application has also been complied with.

2.6 All Responsible Authorities have been consulted on this application.

2.7 Relevant representations have been received from:

- Licensing Authority
- Environmental Health
- West Midlands Fire Service
- Public Health

2.8 Copies of the representations can be found at Appendices 4 to 7 respectively.

2.9 West Midlands Police have mediated with the applicant's agent, the mediation document is attached at Appendix 8.

2.10 During mediation with West Midlands Police, the applicant's agent provided supporting policy documentation which is attached at Appendix 9, marked as exempt from publication under Schedule 12A of the Local Government Act 1972 (as amended), Part 1, Paragraph 3.

2.11 The applicant and the agent and all those who have submitted representations have been invited to attend the hearing.

- 2.12 A Statutory Licensing Sub-Committee hearing was held on 13 May 2020 to determine the application. Due to circumstances surrounding existing premises licences the Statutory Licensing Sub-Committee agreed to adjourn the hearing until 29 May 2020.
- 2.13 A request was submitted by the applicant's agent to adjourn the Statutory Licensing Sub-Committee scheduled for 29 May 2020. It was agreed by all parties to adjourn the meeting until 29 June 2020.

### **3.0 Policy Implications.**

- 3.1 In the 2020 Statement of Licensing Policy, the Cumulative Impact Policy (CIP) was revised and consideration was given to the five Cumulative Impact Zones (CIZ) and problem areas bordering them (Special Consideration Areas). Applications received for premises within these areas will be subject to a matrix approach contained within the Statement of Licensing Policy.
- 3.2 This decision supported the view that the number, type and density of premises selling alcohol for consumption and/or late-night refreshment in areas within Wolverhampton City was causing problems of nuisance and disorder and therefore causing an adverse impact on the licensing objectives of prevention of crime and disorder and prevention of public nuisance.
- 3.3 The effect of this CIP is to create a rebuttable presumption that applications in respect of the sale or supply of alcohol and/or late-night refreshment for new Premises Licences, Club Premises Certificates or Provisional Statements and applications for variations of existing Premises Licences, Club Premises Certificates, where the premises are situated in the Cumulative Impact Zone will be refused.
- 3.4 Essentially this means that applications that are likely to add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. (This policy does not act as an absolute prohibition on granting new licences in the Cumulative Impact Zones).
- 3.5 To rebut the presumption, explained in 3.4 above, the applicant is expected to demonstrate through their operating schedule and where appropriate with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced and not therefore have an adverse impact in the Licensing Objectives.

### **4.0 Financial implications**

- 4.1 There are no direct financial implications associated with the recommendations in this report. The fee for this application is £190.00 and is non-refundable. The fees and charges in relation to the Licensing Act 2003 are set by the Secretary of State. This was noted by the Statutory Licensing Committee on 22 January 2020. [NC/06012020/K]

## **5.0 Legal implications**

- 5.1 Part 4(1) of the Licensing Act 2003 states that a Licensing Authority must carry out its function under the Act with a view to promoting the Licensing Objectives, namely:
- (a) The prevention of crime and disorder
  - (b) Public safety
  - (c) The prevention of public nuisance
  - (d) The protection of children from harm.
- 5.2 The general duties imposed on Licensing Authorities means proper consideration must be given to the Licensing Objectives when determining a premises licence application.
- 5.3 Regard shall be had to guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 and City of Wolverhampton's Council Licensing Policy Statement which includes a cumulative impact policy.
- 5.4 Section 18 of the Licensing Act 2003 provides the Licensing Authority with the power to grant an application, subject to conditions, where appropriate.
- 5.5 In order for the Cumulative Impact Policy to be relevant to this application the Sub-Committee:
- I. Should be satisfied it applies due to:
    - (a) Premises being located within the Cumulative Impact Zone;
    - (b) Licensable activity applied for at the premises is to include sale of alcohol or late-night refreshment
    - (c) The likelihood that the activity will have an impact on the crime and disorder or prevention of public nuisance licensing objectives.

And where the Cumulative Impact Policy is deemed to apply:

II. Should refuse an application based upon the Cumulative Impact Policy unless sufficient evidence is produced, by the applicant, to rebut the presumption that a licence will not be granted or varied.

- 5.6 If the Sub-Committee are satisfied sufficient evidence has been produced to show the premises will not add to the Cumulative Impact already being experienced, the application should not be refused based upon Cumulative Impact Policy.  
[SH/01052020/A]

## **6.0 Equalities implications**

- 6.1 This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in Section 4 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.

6.2 Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the Council on a number of grounds including the protection of rights and freedoms of others. The First Protocol –

Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

## **7.0 Climate change and environmental implications**

7.1 There are no climate change and environmental implications in relation to this report.

## **8.0 Human resources implications**

8.1 There are no human resource implications in relation to this report

## **9.0 Corporate landlord implications**

9.1 There are no corporate landlord implications in relation to this report

## **10.0 Schedule of background papers**

10.1 Statutory Licensing Sub-Committee minutes dated 13 May 2020

## **11.0 Appendices**

11.1 Appendix 1 - Application

11.2 Appendix 2 - Location Plan

11.3 Appendix 3 - Cumulative Impact Zone Policy

11.4 Appendix 4 - Licensing Authority Representations

11.5 Appendix 5 - Environmental Health Representations

11.6 Appendix 6 - West Midlands Fire Service Representations

11.7 Appendix 7 - Public Health Representations

11.8 Appendix 8 - West Midlands Police Mediation

11.9 Appendix 9 - Policy Documents