

**Minutes of the Licensing Sub-Committee 2
Tuesday, 3rd March, 2020 at 10.00 am
In the Council Chamber, the Council House, Dudley**

Present:

Councillor M Evans (Chair)
Councillors J Baines and P Drake

Officers:-

B Hughes – Assistant Team Manager (Directorate of Public Realm), S Wright – Solicitor and
L Jury – Democratic Services Officer (Directorate of Finance and Legal).

31 **Declarations of Interest**

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

32 **Minutes**

Resolved

That the minutes of the meeting held on 28th January, 2020, be approved as a correct record and signed.

33 **Variation of Designated Premises Supervisor – Darby End Convenience Store, 63B Northfield Road, Dudley.**

A report of the Director of Public Realm was submitted for the variation of designated premises supervisor in respect of the Darby End Convenience Store, 63B Northfield Road, Dudley, DY2 9JQ.

The following persons were in attendance at the meeting in respect of the application:

Mr Panchal – Director of Institute of Licensing – Representative of Mr R Singh
Mr R Singh – Proposed designated premises supervisor
Ms K Turley – West Midlands Police
Ms D Jenkins – West Midlands Police
Mr A Babbs – Licensing Enforcement Officer

Following introductions, the Assistant Team Manager presented the report on behalf of the Council. It was reported that a premises licence had initially been issued on 26th September 2005 and the current premises licence holder was Mr Harjinder Singh. On the 5th July 2019, an application for the review of the premises licence was received from the Public Protection Manager (Food and Consumer Safety) on the grounds of the prevention of crime and disorder and the protection of children from harm.

Representations in support of the review were received from the Her Majesty's Immigration Department, Chief Officer Health and Wellbeing and the West Midlands Police (WMP).

It was reported that this matter had been considered by the Sub-Committee on 27th August 2019 where the Committee resolved that the Licence be revoked. The Assistant Team Manager brought to the Committee's attention that the premises were currently operating pending an appeal which was due to be heard at the Magistrates' Court on 23rd April 2020.

On 27th January 2020, an application was received from Personal Licence Courses UK on behalf of Mr H Singh (Premises Licence Holder) for the variation of the premises licence to specify an individual as a Designated Premises Supervisor (DPS). On 7th February 2020, West Midlands Police raised objections to the application under the Crime and Disorder Licensing Objective.

Ms D Jenkins and Ms K Turley presented the representations of West Midlands Police outlining their objections to the variation of a DPS. Prior to making their objectives to Mr H Singh, an attempt had been made to arrange a meeting with Mr H Singh and his Licensing Consultant to ascertain Mr H Singh's involvement with the premises. Specific reference was made to the visit made by immigration on the 13th June 2019 whereby an unpaid illegal worker had been found to be solely in charge of the premises.

Reference was made to the various attempts that WMP had made to try to arrange a meeting with the proposed Designated Premises Supervisor, Mr Ranjeet Singh, via his Licensing Advocate, Mr Panchal, but despite being offered varying dates, no responses had been received to any calls and emails that had been sent.

During a compliance check that had been carried out by WMP and a Licensing Enforcement Officer on the premises on 12th February 2020, it was identified that a sign on the door referred to the opening times of the store on a Sunday from 8.00am till 8.00pm which, it was noted, were not the times stated on the premises licence. On entering the premises, a lady who was working behind the counter introduced herself and she confirmed that she had been working at the premises for two years.

Upon questioning her about Mr H Singh, she stated that she was not aware of Mr H Singh, she had no contact details for him and confirmed that she had never had a copy of the premises licence. In response to a question asked regarding her supervision, she stated the Mr Davinder Singh gave her instructions. It was reported that Mr Davinder Singh had been the male member of staff who had been responsible for the underage sale of alcohol on the premises on 18th June 2019.

When questioned about Mr Harjinder Singh, who was the current Premises Licence Holder and DPS, she confirmed that he had no input into the premises and had not done for some time. She confirmed that she opened the premises at 5.30am every day, and it was noted that this was in contravention to the hours stated on the premises licence. It was confirmed that she together with Mr Singh and a lady who worked on Sundays, worked in the shop.

In conclusion, referring to the numerous problems and issues as set out in their report, it was noted that the main concern for WMP related to the fact that the employee was not aware of Mr Singh and, on this basis, WMP raised an objection as they did not believe that the licencing objections could be upheld.

Arising from a question raised by Mr Panchal whether procedural checks had been undertaken on Mr Ranjeet Singh in line with the submission of an application, WMP confirmed that the procedural checks had been undertaken and no convictions or pending convictions had been found.

Mr Panchal confirmed that he had not met with WMP due to his commitments but he had spoken to the Police when the application had been submitted. In responding, WMP advised that they had spoken to Mr Panchal when they had contacted him to arrange a meeting. However, the meeting had not taken place as Mr Panchal had not responded to any calls that had been made or returned any emails that had been sent. It was noted that WMP would have been satisfied to have met with Mr Panchal's client alone as Mr Panchal was unavailable due to his busy schedule.

In response to a question raised by the Chair, WMP confirmed the number of attempts they had made to reach Mr Panchal by telephone, and referred to emails that had also been sent suggesting a meeting but again reiterated no response had been received.



LSBC2/38

In response to a question raised by the Solicitor, WMP confirmed their main concern related to Mr H Singh not promoting the crime prevention objective within the Licensing Act 2003 and that members of staff working on the premises were not aware of the objectives in relation to the underage sale of alcohol and that the premises were not being managed and operated as they should be. As Mr H Singh had indicated on the application that Mr R Singh would be the DPS with immediate effect, it was expected that Mr R Singh would be working with his staff to ensure that the refusal register was being used, the licence displayed, sufficient training provided to employees, and that authorisation would be given for sale of alcohol. As a result of the visit that had been undertaken on the premises, it had become evident that this was not the case.

The Licensing Enforcement Officer presented the facts of the case relating to the prevention of crime and disorder outlined the reasons that had resulted in the application being made for a review of the premises licence.

It was reported that the compliance visit had been undertaken on the premises with WMP present and it was confirmed that the employee spoken to had not seen a copy of the licence nor was it displayed in the store. A copy of the licence was supplied to her and the offences for not displaying a copy of the licence on the premises were reported.

It was noted that Mr H Singh had been stated as both the DPS and the premises licence holder and the employee stated that she had not seen him for some time and he was not involved with the running of the premises. However she had details of Davinder Singh who she confirmed she took directions from. An attempt had been made to contact Mr D Singh, however a response had not been received.

It was noted that Closed Circuit Television (CCTV) was operational on the premises and the employee could download the system if necessary. On reviewing some footage that had been taken on the premises, it had become evident that the premises were operating outside of their licensing hours.

In response to a question raised by the Chair relating to the opening hours, the Licensing Enforcement Officer, confirmed that when the employee had been made aware of the licensing hours, she stated that she was unaware of the correct opening hours as she had not seen a copy of the licence. She also confirmed that she had been operating the hours she had been to allow for a bread and milk delivery to the premises and that she was not aware that they were outside of the licencing hours. It was noted that the employee had not received any formal CCTV training.



Working as One Council in
the historic capital of the Black Country



LSBC2/39

The Licensing Advocate presented the case on behalf of his client, and in doing so made reference to legislation with regards to the Police opposing a DPS application but only on exceptional circumstances.

Mr Panchal gave a detailed account of why there had been a delay in submitting the application to transfer the DPS and he apologised that he had not been able to attend meetings that had been arranged in February with the WMP due to his busy schedule. He stated that it was his opinion that the DPS did understand the licencing objectives and would be willing to co-operate going forward. The DPS had no criminal record, that CCTV cameras on the premises were in working order, there was a refusal book on the premises and that he believed his client would be capable of managing the premises. It was his opinion that no evidence had been submitted this day that had proven that his client would be incapable of managing the premises and requested that the variation be granted.

In responding, WMP stated that they considered that their objections were completely proportionate in relation to the incident that had occurred in June 2019 with regards to the underage sale of alcohol. Referring to the Licensing meeting that had taken place on 27th August 2019, it had been stated that it had been Mr H Singh's intention to change the DPS and the premises licence holder with immediate effect but this had not taken place. Mr Panchal had also made reference to a negotiation meeting that had taken place with Solicitors in November but the DPS variation had not been received until the end of January and a transfer of premises licence was still outstanding, resulting in Mr H Singh remaining as the premises licence holder.

In response to questions raised by Members of the Committee, Mr Singh confirmed that he was the Director of a chip shop next door to the Darby End store and he attended the store on a regular basis. However it was acknowledged that the employee may not know his actual name as she referred to him as 'Pete'. He confirmed that there were two members of staff working in the store but he had only been managing the store for six months and that they may not be aware of him or know his actual name. It was noted that Mr R Singh had no prior experience of being a DPS.

Mr R Singh stated that he understood the licencing laws but it was acknowledged that he was not aware of important statutory guidance for premises licence holders, specifically section 182, with regards to the day-to-day management of a store and the prevention of disorder, that the Solicitor made reference to at the meeting. Mr R Singh confirmed that he had not attended any training courses with regards to licencing objectives and he had not seen a copy of the premises licence.

In response, WMP questioned Mr Singh's responsibility as the premises licence holder as he had not seen a copy of the premises licence despite a copy being presented to the employee on 12th February 2020 during a compliance visit.

In response to a question raised with regards to the premises operating outside the licencing hours, Mr Panchal responded on behalf of his client and in doing so, made reference to the store having been open from 6.00am in the morning for many years as it supplied newspapers to the local community and this had never been challenged by the authority prior to the visit made where the opening times had been questioned. Since this issue had been raised, the opening hours on the premises licence had been brought to the attention of his client and a variation to the times would be requested as the store was losing business as it no longer opened till 8.00am.

At this juncture, the Assistant Team Manager advised the Sub-Committee of the potential criminal offences that the premises licence holder of the store could be committing, including the premises licence not being available or displayed in the store and he advised that Mr Singh seek advice on this issue as it was evident that Mr Singh was unaware of the consequences of his actions.

Mr Panchal replied that issues that had been raised as a consequence of the visit to the store, had been implemented immediately and he reiterated that a variation of the opening times would be submitted.

The parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

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

Resolved

That, following careful consideration of the information contained in the report submitted and presented at the meeting, the application for the variation of a Designated Premises Supervisor in respect of the premises known as the Darby End Convenience Store, 63B Northfield Road, Dudley, DY2 9JQ be rejected, as the Sub-Committee were not satisfied that the applicant would promote the objective of preventing crime and disorder at the premises.

The applicant was advised of his right to appeal the decision of the Sub-Committee.

The meeting ended at 11.05am.

CHAIR