

Licensing Sub-Committee 2 – 31st October 2017

Report of the Strategic Director Place

Transfer of Premises Licence and Variation of Designated Premises Supervisor

Purpose

1. To consider the application for transfer of premises licence and variation of designated premises supervisor in respect of The Convenience Store, 260 Bromley Lane, Kingswinford, West Midlands, DY6 8TU.

Recommendation

2. That the Sub-Committee consider the application for transfer of premises licence and variation of designated premises supervisor in respect of the premises known as the Convenience Store, 260 Bromley Lane, Kingswinford, West Midlands.

Background

3. On the 25th September 2017, Mr Amit Singh made application for the transfer of the premises licence from the current licence holder Mr Mirzar Mazhar Ali and variation of the designated premises supervisor in respect of the premises known as The Convenience Store, 260 Bromley Lane, Kingswinford. A copy of both application forms have been circulated to Committee Members and Interested Parties in accordance with the Licensing Act 2003.
4. Confirmation that the applications have been served on the relevant authority has been received.
5. On the 5th October 2017, the West Midlands Police raised objections to the applications. A copy of the objection notice has been served on the Applicant and Committee Members in accordance with the Licensing Act 2003.
6. The Convenience Store (AKA Liquor World) was first issued with a premises licence on the 29th October, 2008, and is issued for the following:

| | | | |
|------------------------|-------------------------|--------------|--------------|
| Sale of Alcohol | Monday to Sunday | 06:00 | 23:00 |
|------------------------|-------------------------|--------------|--------------|

7. The Convenience Store/Liquor World has previously been the subject of a review of the premises licence by the Committee on the 17th June 2014, the premises licence holder and DPS at the time was Mr P S Samra, the Committee resolved that he remove himself as the DPS and that additional conditions be attached to the premises licence.
8. On the 5th June 2017 an application to transfer the premises licence was received from Mr Mirza Mazhar Ali.
9. On the 12th June 2017, a copy of a Closure Order under the Anti-Social Behaviour, Crime and Policing Act 2014 was received by the Licensing Officer from Walsall Magistrates Court.
10. On the 19th June 2017 no objections having been received from the police the licence was transferred to Mr Ali (the applicant had indicated the transfer should be effected immediately and the date shown on that licence will be 5th June 2017).
11. As a result of the closure notice being received a review of Mr Ali's premises licence was required. The Council advertised the review of the premises licence for 7 consecutive days in accordance with Licensing Regulation SI, 2005, No. 42, Section 38.
12. The review was considered by the Licensing Sub-Committee on the 20th June 2017, the Committee resolved that the premises licence be revoked. A copy of the Committee decision has also been forwarded to Committee Members prior to the hearing for information.
13. The decision of the Committee has been appealed to the Black Country Magistrates Court and is currently still ongoing. The effect of the appeal means that the premises licence is still active.
14. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

15. There are no financial implications.

Law

16. The law relating to the granting of applications to vary a licence to specify individual as premises supervisor is governed by the Licensing Act 2003, part 3, section 37.
17. Pursuant to part 3, section 37(5) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he/she must give the relevant licensing authority a notice stating the reasons why he/she is so satisfied.

18. Pursuant to part 3, section 37(6) the Chief Officer of Police must give that notice within the period of 14 days beginning with the day he/she is notified of the application.
19. Pursuant to section 39(3), the Licensing Authority must:-
 - (a) hold a hearing to consider it, unless the authority, the applicant, and the Chief Officer of the Police who gave notice agree that a hearing is unnecessary, and
 - (b) having regard to the notice reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
20. Pursuant to regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005), the Licensing Authority must make its determination at the conclusion of the hearing.
21. Where an application under section 37 is granted or rejected pursuant to section 39(4), the Licensing Authority must give a notice to that effect to:-
 - (a) the applicant
 - (b) the proposed individual, and
 - (c) the Chief Officer of Police for police area in which the premises are situated.
22. Pursuant to section 39(5) the notice must state the authority's reasons for granting or rejecting the application.
23. Pursuant to section 39(6) where the application is granted, the notice must specify the time when the variation takes effect.
24. Pursuant to schedule 5, part 1 1(c) if the Licensing Committee refuse to grant the application to vary a licence to specify individual as premises supervisor there is a right of appeal to the Magistrate's Court.
25. Pursuant to schedule 5, part 1 5(1) and (2) if the licensing Committee grants the application to vary a licence to specify individual as premises supervisor in a case where the Chief Officer of the Police gave notice under section 37(5) the Chief Officer of the Police may appeal against the decision to grant the application.
26. The law relating to applications to transfer of premises licence is governed by the Licensing Act 2003, part 3, section 42.
27. Pursuant to section 42 (6) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
28. Pursuant to section 42 (7) the Chief Officer of Police must give that notice within the period of 14 days beginning with the day he his notified of the application.

29. Pursuant to section 44 (5) the Licensing Authority must:-
- (a) hold a hearing to consider it, unless the authority, the applicant, and the Chief Officer of the Police who gave notice agree that a hearing is unnecessary, and
 - (b) having regard to the notice reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
30. Pursuant to regulation 26 (1) of the Licensing Act 2003 (Hearing Regulations 2005), the Licensing Authority must make its determination at the conclusion of the hearing.
31. Pursuant to section 45 (1) where an application under section 42 is granted or rejected the Licensing Authority must give a notice to that effect to:-
- (a) the applicant; and
 - (b) the Chief Officer of Police in which the premises are situated.
32. Pursuant to section 45 (2) the notice must state the authorities reasons for granting or rejecting the application.
33. Pursuant to section 45 (3) where the application is granted, the notice must specify the time when the transfer takes effect.
34. Pursuant to section 45 (4) the licensing authority must also give a notice
- (a) where the application is granted:-
 - (i) to the holder of the licence immediately before the application was granted, or
 - (ii) if the application was one to which included a request that the transfer take immediate effect, to the holder of the licence immediately before the application was made (if any)
 - (b) where the application is rejected, to the holder of the premises licence (if any)
35. Pursuant to schedule 5, part 1 1(d) if the Licensing Committee refuse to grant the application for transfer of premises licence there is a right of appeal to the Magistrate's Court.
36. Pursuant to Schedule 5, Part 1 6 (1) and (2) if the Licensing Committee grants the application to vary a licence to specify individual as premises supervisor in a case where a Chief Officer of Police gave notice under section 42 (6) the Chief Officer of the Police may appeal against the decision to grant the application.

Equality Impact

37. This report complies with the Council's policy on equal opportunities.
38. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
39. There has been no consultation or involvement of children and young people in developing these proposals.

Human Resources/Transformation

40. There are no Human Resources or Transformation implications.



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List of Background Papers