

Licensing Sub-Committee 2 - 12th January 2010

Report of the Director of Corporate Resources

Transfer of Premises Licence and Variation of Designated Premises Supervisor

Purpose of Report

- 1 To consider the transfer of premises licence and variation of designated premises supervisor in respect of Naiks Mini Market, 3 Gladstone Buildings, New Street, Dudley, West Midlands.

Background

2. On the 4th July 2005, an application was received from Mr Gurnaik Singh for the conversion of an existing licence into a premises licence, in respect of the premises known as Naiks Mini Market.
3. Confirmation that copies of the application form and supporting documentation were served on the relevant authorities, was received.

4. That Licence was granted on 20th July 2005, for the following days and times:-

Sale of Alcohol

Monday to Saturday	08.00 – 23.00	Good Friday	08.00 – 22.30
Sundays	10.00 – 22.30	Christmas Day	12.00 – 15.00 19.00 – 22.30

5. On the 20th June 2008 the designated premises supervisor had their personal licence suspended for 2 months by Dudley Magistrates Court for the sale of alcohol to a person under the age of 18.
6. On the 7th July 2008, a variation of designated supervisor was granted to Mr Guralp Singh Hullait.
7. At that point the current premises licence holder was Mr Gurnaik Singh and the current designated premises supervisor was Mr Guralp Singh Hullait.

8. On the 17th August 2009, the Trading Standards Department made application for the review of the premises licence in respect of Naiks Mini Market.
9. The Council advertised the application for review of the Premises Licence in respect of Naiks Mini Market in accordance with Licensing Regulation S1 2004 No 42 Section 38.
10. Confirmation that the application had been served on the relevant authorities was received from Trading Standards.
11. The West Midlands Police made comments, which were brought to the attention of the Committee.
12. Twenty three letters of support were received on behalf of Mr Singh and were sent to the applicant, Committee Members and interested parties in accordance with the Licensing Act 2003.
13. Mr Singh also sent a letter of sincere apology. That letter was also sent to the applicant, Committee Members and interested parties in accordance with the Licensing Act 2003.
14. On the 9th September 2009, Kenneth Curtis & Co, Solicitors informed the licensing office that they had been instructed by Mr Gurnaik Singh to act on his behalf.
15. This matter was considered by the Licensing Sub-Committee on the 6th October 2009. The Committee resolved that arising from the review of the premises licence held in respect of Naiks Mini Market, the premises licence be suspended for a period of two months with immediate effect for the following reasons:-

The Committee has considered the evidence of Mr Singh with regard to the sale on 22nd May 2009. He accepts the sale, has apologised and the Committee accepts that Mr Singh was in some degree of personal distress at the time due to the death of his mother.

However, the Committee considers the history to be extremely serious, and the steps that the shop now appears to be taking are significantly overdue.

The Committee considered revocation of the licence but in light of the mitigating circumstances and the current steps to improve the sale of alcohol, the Committee has made a decision not to revoke the licence.

However, in order to bring the procedures up to acceptable standards, the Committee suspends the licence for a period of two months. It considered the maximum suspension of three months but appreciated that this would have a significant impact upon Christmas trade.

The Committee imposes the conditions set out in the Review application numbered 1-13 and additionally imposes the condition that Mrs Gurbakhas Kaur completes the NCPLH Course in October 2009.

The suspension takes effect from 6th October 2009 until 6th December 2009 at midnight.

16. On the 26th October 2009 an application was received from Gurnaik Singh to vary the premises licence to specify Mrs Gurbakhash Kaur as the Designated Premises Supervisor. Also on the 26th October an application was received from Mrs Gurbakhash Kaur for the transfer of the premises licence.
17. Confirmation that the applications have been served on the relevant authorities was received.
18. The West Midlands Police raised objections to both applications.
19. This matter was due to be considered by the Licensing Sub-Committee on the 24th November 2009. However on the 16th November 2009, Kenneth Curtis & Co. withdrew both applications.
20. On the 20th November 2009, an application was received from Mr Gurpal Singh Hullait for the request to be removed as designated premises supervisor.
21. On the 7th December 2009, applications were received from Kenneth Curtis & Co. Solicitors on behalf of Mrs Gurbakhash Kaur for the transfer of the premises licence and also to vary the premises licence to specify an individual as designated premises supervisor. Both applications were made with immediate effect. A copy of both applications are attached to this report as Appendix 1.
22. The West Midlands Police raised objections. A copy of that report is attached as Appendix 2.
23. 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

24. There are no financial implications.

Law

25. 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.
26. 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 must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
27. 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 is notified of the application.

28. 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.
29. 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.
30. 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.
31. Pursuant to section 39(5) the notice must state the authorities reasons for granting or rejecting the application.
32. Pursuant to section 39(6) where the application is granted, the notice must specify the time when the variation takes effect.
33. 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.
34. 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.
35. The law relating to applications to transfer of premises licence is governed by the Licensing Act 2003, part 3, section 42.
36. 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.
37. 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.
38. Pursuant to section 44 (5) the Licensing Authority must:-

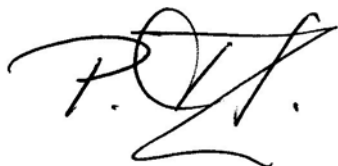
- (a) hold a hearing to consider it, unless the authority, the applicant, and the Chief Officer of the Police who gave notice agree that a hearing is unnecessary, and
 - (b) having regard to the notice reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
39. 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.
40. 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.
41. Pursuant to section 45 (2) the notice must state the authorities reasons for granting or rejecting the application.
42. Pursuant to section 45 (3) where the application is granted, the notice must specify the time when the transfer takes effect.
43. 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)
44. 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.
45. 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

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

Recommendation

49. That the Sub-Committee consider the application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers