

Licensing Sub-Committee – Meeting held on Tuesday, 29th April, 2014.

Present:- Councillors Davis, Rasib and Malik (Chair)

Officers Present:- Slough BC

Ian Blake, Neighbourhood Enforcement Officer
Teresa Clark, Senior Democratic Services Officer
Dean Cooke, Senior Trading Standards Officer
Rachael Rumney, Senior Licensing Officer
Michael Sims, Licensing Manager
Niall Toru, Solicitor

Apologies for Absence:- Councillor Sohal

PART 1

31. Declarations of Interest

Councillor Rasib declared that he had sat on a Sub-Committee in January 2014, which had considered a review of the Premises Licence for Roshni Food and Wine, located at 18 High Street, Slough SL1 1EQ. Councillor Rasib also advised that the application for Slough Food and Wine was in the Chalvey Ward for which he was Ward Member. Councillor Rasib stated that he had an open mind in respect of the licensing application for Slough Food & Wine at 18 High Street, Slough, SL1 1EQ, and would participate in the decision process for the application.

32. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance note on Predetermination and Predisposition.

33. Minutes of the Last Meeting held on 30th January 2014

Resolved – that the minutes of the meeting held on 30th January 2014 be approved as a correct record.

34. Application for Premises Licence, Slough Food and Wine, 18 High Street, Slough, SL1 1EQ

Following introductions the procedure for the hearing was outlined. The Chair confirmed that all parties had received a copy of the relevant paperwork.

Introduction by Rachael Rumney, Senior Licensing Officer, Slough BC

The Officer advised that following the application for a new premises licence for 18, High Street, Slough, by Mr Gulati, concerns were raised by the Licensing Authority, Thames Valley Police (TVP), Trading Standards, and the Neighbourhood Enforcement Team.

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It was highlighted that following a review application, the premises licence for Roshni Food & Wine, 18 High Street, Slough, was revoked on 30th January 2014. An appeal against the revocation had been lodged and was currently pending. The concerns related to the previous history of the premises which was currently trading as Roshni Food & Wine; the association between the Applicant, Mr Gulati, and the current premises holder for Roshni Food & Wine, Mr Chopra; and the lack of enforceable conditions to promote the four licensing objectives detailed in the applications operating schedule.

A mediation meeting was held on 19th March 2014, between the Applicant, his representative, Mr Surendra Panchal, Michael Sims (Licensing Manager), Melanie Sagar (Licensing Officer), Debie Pearmain (TVP Licensing Officer), Rachael Rumney (Senior Licensing Officer), David Stride (Neighbourhood Enforcement Team) and Dean Cooke (Trading Standards Officer.) The purpose of the meeting was to review the application and the responses to it from the Licensing Authority, TVP, Neighbourhood Enforcement and Trading Standards and to discuss the association between Mr Chopra and the new applicant Mr Gulati.

The Officer confirmed that the Applicant had agreed to all of the conditions proposed by TVP, including the implementation of a Challenge 25 policy, and that quarterly training would be carried out by an independent trainer. Mr Gulati also confirmed that Mr Chopra (the current licence holder for Roshni Food & Wine) would have no involvement in the running of the premises.

The Officer summarised the representations made by the responsible authorities. The Licensing Authority had requested that consideration be given to refusing the premises licence application but should the application be granted, several conditions were recommended as detailed in the report. It was noted that TVP and the Neighbourhood Enforcement Team also had a list of requested conditions.

Mr Gulati had applied to be the Designated Premises Supervisor (DPS) for Slough Food & Wine. It was confirmed that Trading Standards objected to Mr Gulati being nominated as DPS.

The Officer reminded the Committee of its obligation to adhere to the relevant guidance, which included having regard to Chapter 9 of the amended guidance issued under section 182 of the Licensing Act 2003 and in particular to paragraphs 9.17-9.19 (Licensing authorities acting as responsible authorities) and paragraphs 9.27-9.40 (hearings). The Committee must also have regard to the Council's Statement of Licensing Policy 2014-2019, including paragraph 4.27 (hours of sale in off-licences).

The Officer reminded the Committee of the actions it could take, i.e.

1. Grant the application as it stood in which case it would be issued subject to the relevant mandatory conditions and conditions consistent with the applicants operating schedule.

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2. Grant the application subject to further conditions which were reasonable, proportionate and appropriate in order to meet one or more of the four licensing objectives i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.
3. Refuse the application.

Michael Sims, Licensing Manager

Mr Sims summarised the history of the premises, and the actions taken by Officers in light of this. It was confirmed that the premises had been subject to two interventions for the sale of alcohol to minors and for the sale of illicit tobacco products. Mr Chopra was subsequently prosecuted, found guilty, and fined. On the occasion in question, the DPS was not present at the premises, in contravention to the stipulated conditions.

At the review application heard by the Licensing Sub Committee on 30th January 2014, the premises was issued with a Red Card and the Premises Licence revoked. During this review hearing, Mr Chopra was represented by Mr Gulati. Prior to the mediation meeting that was held in March 2014 to discuss the Slough Food and Wine application, Mr Chopra and Mr Gulati were investigated through Companies House records and a Police National Computer check. At the mediation meeting Mr Gulati was asked whether he had any previous or current convictions, wherein he replied that he had not. TVP put to Mr Gulati that he did have convictions in 2004 for selling foods bearing false trademarks and infringement of copyright offence.

In the same meeting, Mr Gulati was asked whether he had any kind of current or previous business relationship with Mr Chopra and he advised that he had not. It was then highlighted to Mr Gulati with supporting documentation that he had in fact had several previous and current business associations with Mr Chopra such as company directorships at retail outlets. The Officer concluded that Mr Gulati's denial of these matters cast doubt on his integrity.

Since Mr Gulati had nominated himself to be the DPS for the new application, the Officer expressed concern that Mr Gulati's other business interests would impact on his ability to perform the duties of a DPS to the required extent. Further, the Officer was concerned that the close business relationship between Mr Gulati and Mr Chopra, made it difficult to accept that Mr Chopra would not be involved with the running of the business. Have regard to the historical evidence of Mr Chopra and the premises itself, the Officer was concerned that further criminal offences may take place at the premises which would undermine the Licensing Objectives of the prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm.

In view of the concerns outlined, the Officer recommended that the application be refused. However, should a decision be made that the application be granted, further recommendations as to conditions were outlined as set out in the Officer's report.

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Questions to Michael Sims, Licensing Manager

The Sub-Committee asked Mr Sims whether it was possible that Mr Gulati's response to the question regarding his convictions could be attributed to the fact that he understood the convictions were spent and therefore not relevant. Mr Sims replied that all convictions, whether spent or not, were deemed relevant and it was expected that applicants would confirm all convictions when asked.

The Committee also asked for clarification on when the new application was submitted and Mr Sims confirmed that Slough Food and Wine was registered with Companies House on the 12th February 2014, approximately two weeks after the Premises Licence for Roshni Food & Wine was revoked. The application for a Premises License on behalf of Slough Food & Wine was then submitted on the 5th March 2014.

Mr Panchal, acting on behalf of Mr Gulati, highlighted that the application was for Slough Food & Wine, a separate business, and requested clarity as to why the Officers were referring to Roshni Food & Wine. Mr Sims confirmed that recently it had become common practice that when a Premises Licence was revoked following a review application, primarily in relation to underage sales, seizures of illicit tobacco products and counterfeit alcohol, an appeal against the revocation would be submitted to the Magistrates Court. Whilst the appeal was pending a new premises license application would be made and then subsequently withdrawn if the application was granted. The practice was legitimate but on two recent occasions this process had preceeded the seizures of illicit tobacco products and counterfeit alcohol. It was apparent that the previous licence holders were still heavily involved in the operation of the new premises. Due to the close business relationship between Mr Gulati and Mr Chopra, together with Mr Gulati's responses to questions at the mediation meeting, these same concerns existed in relation to the application for Slough Food and Wine. Therefore the Officer concluded that discussion around Roshni Food & Wine and the history of the premises was relevant.

Dean Cooke, Senior Trading Standards Officer

Mr Cooke discussed the history of non compliance with licence conditions at the premises, which included an underage test purchase of alcohol, when minors were sold alcohol, and a test purchase of a single can of alcohol, when a Licensing Officer was sold a single can (in breach of one of the conditions of the premises Licence). A food standards inspection had revealed illicit tobacco at the premises and a further six breaches of licensing conditions were identified including a lack of CCTV training. Mr Chopra was prosecuted and plead guilty to ten counts relating to the sale of alcohol, and four counts related to the sale of tobacco.

Mr Cooke confirmed that it was the aim of Trading Standards to ensure that such issues were not repeated in the future. The Officer shared the concerns discussed regarding the close relationship between Mr Gulati and Mr Chopra and advised that Mr Gulati was secretary for one of Mr Chopra's businesses.

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He reported that when Roshni Food and Wine was first opened, both individuals were directors of the company, among other businesses.

Mr Cooke considered that Mr Gulati's responses to questions at the earlier mediation meeting reflected poorly on Mr Gulati's integrity, and it was the opinion of the Officer that the way the application was submitted and handled was not congruent with the continued upholding and adherence to the law. The Officer concluded that the Trading Standards' recommendation was that the application be refused.

Questions to Mr Cooke

Mr Panchal asked whether Mr Cooke had checked on the ownership of Slough Food and Wine and Mr Cooke confirmed that he had, and that the business was wholly owned by Mr Gulati. However, the Officer confirmed that concerns remained owing to Mr Gulati's continued relationships with Mr Chopra which in his opinion suggested that it was likely the same behaviours and practices seen at Roshni Food and Wine would continue at Slough Food and Wine.

Ms Debie Pearmain, TVP Licensing Officer

Ms Pearmain addressed the Sub-Committee and advised that in her opinion there was a history of disregard for the law at the premises, and that Mr Gulati's integrity was in question following his answers at the mediation hearing.

Further concerns were raised regarding Mr Gulati's suitability to act as DPS for the premises, owing to Mr Gulati's stated inability to properly converse in English. It was argued that such communication was of paramount importance to the role of the DPS, for example when challenging underage or drunk patrons, particularly in an area in which underage or street drinkers were common.

The Officer concluded that TVP supported Mr Sim's recommendation to refuse the application, but that were the licence to be approved, she recommended that such approval be subject to certain conditions as outlined in the report.

Questions to Debie Pearmain, TVP Licensing Officer

Mr Panchal asked whether TVP were happy with Mr Gulati's agreement of new hours of sale for alcohol products. Ms Pearmain advised that TVP were certainly happier with the new hours than the old. However, there remained concerns over Mr Gulati's suitability to act as DPS for the premises.

Ian Blake, Neighbourhood Enforcement Officer

Mr Blake confirmed that Neighbourhood Officers regularly patrolled the area local to the premises, due to antisocial behaviour which included street

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drinking and littering. The Officer recommended that should the Sub-Committee approve the license application, that a Smart Water scheme be implemented so that the source of any litter and waste could be positively identified.

Representations made by the Applicant

Mr Panchal, of Personal Licence Courses Ltd (acting on behalf of Mr Gulati of Slough Food and Wine), addressed the Sub-Committee. He advised that Mr Gulati was a businessman, without any convictions excepting those which had occurred in 2004. Mr Panchal advised that Mr Gulati was simply taking advantage of a business opportunity that had arisen and stated that he was allowed to have a business. Mr Gulati had a share in the business and he would control the business. He had a refusals book and would operate under Challenge 25. Mr Gulati had a personal licence and would promote the required licensing objectives. Mr Gulati did not want Mr Chopra to run Slough Food and Wine and advised the Sub-Committee that the prosecution for Roshni Food and Wine was a separate concern.

It was confirmed that Mr Gulati was happy to adhere to the recommendations made, such as Challenge 25 posters, Smart Water etc. It was pointed out that none of the Officers present had stated that Mr Gulati would be unable to adhere to the conditions of the licence. Mr Panchal also confirmed that Mr Gulati owned 100% of Slough Food and Wine, and that Mr Chopra had no involvement in this business. Mr Panchal questioned why the circumstances of Roshni Food and Wine was being brought into discussions around Slough Food and Wine and asserted that although Mr Gulati had other businesses which involved Mr Chopra, these were irrelevant to the discussion regarding the licence application for Slough Food Wine.

In questioning whether Mr Gulati was able to promote the necessary Licensing objectives, Mr Sims responded that the content of the application was very short and he would have expected to see more detail in view of the Secretary of State's guidance. He also contended that the track record of Roshni Food and Wine was unacceptable and there was a clear association between Mr Gulati and that premises. Further, Mr Chopra would undoubtedly continue to have an involvement with Slough Food and Wine.

Mr Panchal asked whether Mr Cooke was happy with the conditions attached to the licence and whether he felt that Mr Gulati could promote the 4 licensing objectives. Mr Cooke stated that it was for the Sub-Committee to decide whether the Applicant could promote the objectives and if the licence was granted then Trading Standards would support the conditions imposed by Slough BC and TVP.

Questions to the Applicant

The Committee asked Mr Panchal how he could be sure that Mr Chopra would not be involved in the business of Slough Food & Wine. He replied that Mr Gulati had confirmed this to him verbally. The Sub-Committee reminded

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Mr Panchal that it was evident from the notes of the mediation meeting that Mr Gulati was known to not always present an accurate response.

Members requested clarification regarding measures to ensure Mr Chopra would not be involved in the running of Slough Food and Wine. Mr Panchal confirmed that the Sub-Committee could grant approval of the license with a condition that Mr Chopra should not be involved, should they wish.

Members asked Mr Gulati to explain why he had stated during the mediation meeting that he had no present association with Mr Chopra. Mr Gulati confirmed that this was due to not understanding the question properly, and stated that he was not fluent in English.

It was then suggested to Mr Gulati that if he was not able to speak or understand English, he would have difficulty in communicating with patrons to the store, a key part of his role as DPS. Mr Gulati confirmed that he would have staff who were able to do this for him.

Mr Panchal, on behalf of Mr Gulati, raised the point that it was his and his client's understanding that the mediation meeting was to discuss the Smart Water scheme, and he was not aware that TVP or Trading Standards would be present, nor was he aware that there would be any questions pertaining to Mr Gulati's association with Mr Chopra. As such, they were not prepared to answer any questions beside the topic of Smart Water.

Ms Permain, TVP Licensing Officer, confirmed that the only response required was that of an honest response and that this should not have required any prior knowledge or preparation.

Mr Panchal also confirmed, following questions from the Sub-Committee, that Mr Gulati was in the process of acquiring the premises, but that this was predicated upon Slough Food and Wine being granted a Premises Licence. Should this licence not be granted, then Mr Gulati would not continue with the purchase.

Mr Panchal was asked whether he also represented Roshni Food and Wine, to which he replied that he did not.

Mr Sims, Licensing Manager, asked for clarification as to how Mr Gulati would be able to fulfil the responsibilities of his role as DPS for Slough Food and Wine, in light of his other business responsibilities. Mr Panchal confirmed that Mr Gulati's other businesses would not prohibit Mr Gulati from being present at Slough Food and Wine on a full-time basis.

Summing Up

The Sub-Committee was reminded that when deciding the application, the Licensing Authority was obliged to give due consideration to all parties based on the information presented.

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Mr Panchal, acting on behalf of Mr Gulati, asked Members to note that:

- The Sub-Committee was convened to discuss the application for Slough Food and Wine, not the prior behaviour of Roshni Food and Wine, which was a wholly separate business.
- Mr Gulati would fulfil all the licensing objectives, and had agreed to all conditions suggested.
- Mr Gulati would adhere to the law at all times during the running of Slough Food and Wine.

The Sub-Committee adjourned at 11.30 pm in order to reach its decision.

The Sub-Committee re-convened at 12.10 pm when a summary of the decision was announced.

Decision of the Licensing Sub-Committee

The Sub-Committee rejected the application for a premises licence. In reaching its decision the Sub-Committee had regard to the four licensing objectives, i.e. preventing crime and disorder, promoting public safety, preventing public nuisance and protecting children from harm

The Sub-Committee was mindful that Roshni Food and Wine currently operates from 18 High Street, Slough and Mr Jagmohan Singh Chopra holds a premises licence for the sale by retail of alcohol, and is also the DPS. Mr Chopra's premises licence was revoked on 30 January, 2014 (suspended pending his appeal to the Magistrates' Court). The Sub-Committee noted the concerns set out relating to the revocation of Mr Chopra's premises licence, which included sales of illicit tobacco, underage sales and breaches of conditions leading to criminal convictions, the convening of two review hearings and ultimately to the revocation of 30 January 2014.

The Sub-Committee noted also the concern submitted by the responsible authorities that Mr Gulati was too closely related to the existing business and therefore to its very poor licensing history. It was argued that were Mr Gulati to be granted a licence, that it would be very likely that those types of breaches would continue at the premises.

The Sub-Committee was concerned that Mr Gulati had when questioned not revealed any business connections with Mr Chopra, contrary to the evidence from Companies House which indicated that Mr Gulati and Mr Chopra had been joint officers of six limited companies, all retail companies (of which at least five appeared to be convenience stores).

The Sub-Committee noted the explanation given that a new company, Slough Food and Wine Ltd, was incorporated in February 2014, and that Mr Gulati was the sole director and shareholder. Members noted the explanation submitted that if the application were granted that Mr Gulati would purchase the business known as Roshni Food and Wine and transfer it to this new company, and that Mr Chopra would have no involvement with this new

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company or the running of the business. It was also noted that Mr Gulati had agreed to all of the conditions suggested by TVP.

In reaching its decision the Sub-Committee was mindful of the guidance issued by the Secretary of State which stipulates that the Sub-Committee must have regard to any potential negative impacts on the promotion of the licensing objectives and the track record of the business.

The Sub-Committee was concerned that although Mr Gulati had stated otherwise, from the evidence submitted, he had and continued to have a close business relationship with Mr Chopra, of Roshni Food and Wine. The Sub-Committee therefore accepted on balance that there was a likelihood that Mr Chopra would have involvement in the operation of Slough Food and Wine, thereby resulting in further non-compliance with the licensing conditions. This in turn would have a negative impact on the necessary promotion of the licensing objectives.

The Sub-Committee was also concerned with the Applicant's lack of co-operation with the responsible authorities, which it considered undermined his application and ability to promote the licensing objectives. This was demonstrated by his failure to disclose his business connections with Mr Chopra and the previous convictions for selling goods bearing false trademarks and for the infringement of copyright.

Chair

(Note: The Meeting opened at 10.00 am and closed at 12.20 pm)