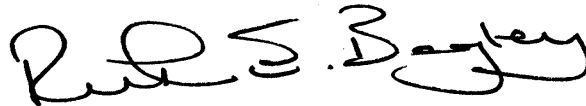


Date of issue: 18th November, 2014

MEETING:	LICENSING SUB-COMMITTEE (Councillors Ajaib (Chair), Bains and Sohal)
DATE AND TIME:	WEDNESDAY, 26TH NOVEMBER, 2014 AT 10.00 AM
VENUE:	SAPPHIRE SUITE 5, THE CENTRE, FARNHAM ROAD, SLOUGH, SL1 4UT
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	TERESA CLARK 01753 875018

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

AGENDA

PART I

<u>AGENDA</u> <u>ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	CONSTITUTIONAL MATTERS		
1.	Declarations of Interest		
	<i>All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances</i>		

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest.

All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

- | | | |
|----|--|--------|
| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 |
| 3. | Minutes of the Meetings of the Sub-Committee held on 2nd September and 25th September 2014 | 3 - 24 |

LICENSING ISSUES

This 'General' Licensing Sub-Committee is convening to hear and decide licensing matters other than those arising under the Licensing Act 2003 and Gambling Act 2005. This includes (amongst others) applications for hackney carriage/private hire drivers' licences, hackney carriage/private hire vehicle licences and street trading consents.

4. Exclusion of the Press and Public

It is recommended that the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972.

PART II

- | | | |
|----|--|---------|
| 5. | Private Hire Operator Conduct Hearing- (Reference 02-14) | 25 - 32 |
| 6. | Private Hire Driver Application- (Reference 03-14) | 33 - 44 |
| 7. | Private Hire Driver Application- (Reference 04-14) | 45 - 54 |
| 8. | Personal Licence Application- (Reference 05-14) | 55 - 72 |



Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the **Part II agenda**. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

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PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Sub-Committee – Meeting held on Tuesday, 2nd September, 2014.

Present:- Councillors Malik (Chair), Ajaib and Coad

Officers Present:- Teresa Clark, Senior Democratic Services Officer, Mick Sims, Licensing Manager, Niall Toru, Solicitor

Apologies for Absence:- None

PART 1

35. Declarations of Interest

Councillor Malik declared in respect of agenda item 5, Premise Licence Review, Baylis House, Stoke Road, Slough, that she had visited events at the premises on a number of occasions and had an open mind.

36. Guidance on Predetermination/ Predisposition - To Note

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

37. Minutes of the Last Meeting held on 29th April 2014

The Minutes of the Last Meeting held on 29th April 2014 were received.

38. Premises Licence Review, Metro Food and Wine (Slough Ltd), 193, Farnham Road, Slough SL1 4XS

(The premises address shown on the Officers report and agenda item as 18, High Street, Slough was incorrect and should have read, 193, Farnham Road, Slough)

Mr Gaba, the Premises Licence Holder of Metro, Food and Wine (Slough Ltd), 193, Farnham Road, Slough, attended the hearing with a relative who interpreted for him. At the commencement of the hearing Mr Gaba stated that he had not received the case papers until 28th August (2 working days before the hearing). He therefore requested an adjournment of hearing on the grounds that he had not been able to appoint a Legal Representative in the short timescale.

The Clerk to the Sub-Committee and the Licensing Manager both confirmed that papers were served at the latest address provided by Mr Gaba within the required notice period. Mr Gaba confirmed that he had failed to provide the Authority with his new address when he moved home 2 years earlier. The papers were subsequently returned to Slough BC from his previous address marked 'Gone Away'. The Licensing Manager confirmed that he had then served the papers by hand.

The meeting was adjourned in order for Members to give consideration to the points that had been highlighted. The Sub-Committee decided that in order to ensure that Mr Gaba was allowed the opportunity to appoint a Legal Representative, the hearing of the premises review be adjourned until the next meeting of the Sib-Committee in September.

39. Premises Licence Review, Baylis House, Stoke Poges Lane, Slough, SL1 3PB

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 Mick Sims, Licensing Manager, Slough BC

Mr Mick Sims, Licensing Manager, outlined a report which related to an application for a Review of the Premises Licence for Baylis House, Stoke Poges Lane, Slough, made under Section 51 of the Licensing Act 2003 by Mrs Debie Pearmain, Thames Valley Police (TVP) Licensing Officer.

The Officer highlighted that two documents submitted by TVP were not included in the agenda papers; a Crime Prevention Survey Report prepared by Anne Chalmers, Police Crime Prevention and Reduction Officer, and an e-mail from Mrs Pearmain (TVP) to Mr Ian Faithful for Baylis House, dated 24th June 2014. It was confirmed that both documents were served on Baylis House by Mrs Pearmain. It was also highlighted that an appendix was published within the agenda documents on the Council website and provided to the legal representative of Baylis House, but not included within the hard copy of the agenda pack. These had been made available to all parties.

The Sub-Committee was informed that on 1st September 2014, section 116 of the Anti-Social Behaviour, Crime and Policing Act 2014 came into force giving Police the power to request guests names and addresses and to view visitors check in details.

The meeting adjourned briefly to allow Members to read the tabled documents.

Prior to his presentation detailing the background to the review, the Sub-Committee was advised by Mr Sims that formal notification had been received from Baylis House on 2nd September, that they had accepted all 24 conditions (as detailed in the report) recommended by TVP. The communication also suggested that the hearing therefore be dispensed with. The Officer highlighted that the Licensing Act 2003 (Hearing) Regulations 2005 stipulated that an authority could dispense with holding a hearing if all persons agreed that such a hearing was unnecessary (other than the authority itself). He advised that TVP had not agreed to dispense with a hearing and Mrs Pearmain would discuss this during her presentation.

The Officer discussed the recommendations and the options available to the Committee as set out in the report and the Sub-Committee was reminded of

the need to have regard to the principles for making decisions, and the relevant policy and legislation when reaching its decision. Members were also requested to consider and make use of the 'Yellow and Red Card' system as directed and recommended by The Department of Culture, Media and Sport (DCMS), and also to have regard to Slough Borough Council's Revised Statement of Licensing Policy 2014-2019.

The Officer confirmed that the Designated Premises Supervisor was Mr Sandeep Shetty, who was responsible for the day to day management of the premises.

The Applicant had requested that all current conditions on the Premises Licence be removed and replaced with 24 new conditions. The Licensing Authority was satisfied that the application for a Review met the appropriate legislative requirements within the Licensing Act 2003 and was therefore a valid application to be considered by the Licensing Sub-Committee

Background to the Review Application

The Officer advised that the Review was brought on the grounds of the Prevention of Crime and Disorder and the Protection of Children from Harm following an alleged serious incident at Baylis House in January 2014 involving two young females. It was felt that the night-staff had not dealt with the incident appropriately and did not report the incident to the Police who were now investigating the matter as two cases of possible rape.

TVP and Licensing Officers met with the management from Baylis House in January 2014 to discuss the incident, and it was felt new conditions would need to be imposed on the Premises Licence either voluntarily, by way of a minor variation being made, or if necessary through the submission of a Review application. Twenty four new proposed conditions were prepared but Baylis House failed to respond to TVP's request for the conditions to be agreed resulting in the Review Application being brought. At a subsequent meeting held on 11th July, 2014, all parties agreed with the proposed conditions including condition 23.

The Officer discussed additional information submitted by TVP in August which TVP considered relevant to the review application. This concerned a report made to the Police of a missing 15 year old girl who had been sighted at Baylis House the previous day. The missing girl was not found at the premises but five young men were found in a room and due to the state of the room, were escorted from the premises by Police Officers. It was highlighted that police had reviewed CCTV at the premises and a young Asian woman was seen with an Asian male (believed to be from the group ejected later that evening) entering the premises by a side or back door. The Police were unable to identify the female and verify her age.

The Sub-Committee noted the representations received from Dr Angela Snowing, Assistant Director of Public Health and Mr John Nixon, Head of Safeguarding & Quality Assurance as set out in the report. These supported

the view that the conditions would assist with the prevention of child sexual exploitation (CSE) and enable the collation of relevant evidence to support the prosecution of perpetrators of CSE at the venue.

Lorna Underwood-TVP Specialist Investigator for Child Sexual Exploitation

Ms Underwood addressed the Sub-Committee and discussed the definition of CSE. She discussed the prevalence of CSE and advised that hotels were common venues for this to take place.

Sergeant Stanley, TVP

Sgt Stanley explained the role of the team who managed CSE and the gathering of intelligence of vulnerable children. He discussed the alleged incident at Baylis House in January when a resident at the hotel reported witnessing the alleged event. He advised that the two girls in question would not engage with TVP when interviewed. He also discussed the second incident in July relating to the missing girl and the occasion when the 5 males were escorted from the premises by TVP Officers. He advised that the girl seen entering the hotel on CCTV cameras had not been identified and it was not possible to establish her age. He considered that door access to the premises was not secure.

Ann Chalmers, Crime Prevention and Reduction Adviser, Thames Valley Police

Ms Chalmers outlined a report which detailed her findings when she visited Baylis House on 23rd June to survey the premises and site. She discussed a number of issues regarding entrance doors, the gated entrance, fire exit doors, security lighting and CCTV within the premises. Ms Chalmers was of the opinion that the Baylis House premises was not secure and she discussed a number of recommendations that would ensure this was rectified.

Ms Debie Pearmain, TVP Licensing Officer

Ms Pearmain addressed the Sub-Committee and confirmed that the Premises Licence Holders had now agreed to the one outstanding requested condition, relating to photographic ID. The Officer was satisfied that this was a very positive step forward and would ensure that the Crime and Disorder and Protection of Children from Harm licensing objectives were not undermined.

Ms Pearmain stated that she found one of the directors of the Company to be dismissive of the issues referred to when the first meeting took place and appeared to be more concerned about the financial side of the business. TVP was concerned about the lack of management at the premises, the lack of security at the Hotel, and the booking system where staff at times did not know who had made bookings or who was occupying the rooms.

Ms Pearmain referred to the recent regulations discussed by Mr Sims which demonstrated how seriously the Government took the issue of CSE, as did

TVP and SBC. She argued that prevention measures currently in place at Baylis House were inadequate and TVP requested that the Sub-Committee suspend the licence until such time as all the requested conditions were put into place, the recommendations made by MS Chalmers were adhered to, and a full licensing inspection could be completed by the SBC Licensing Officer and TVP.

Questions to TVP

Councillor Coad asked why there was no statement available from the witness who had made a complaint on the evening in question and was advised that this could not be disclosed as the case was subject to legal proceedings.

Questions from Mr Brown to TVP

Mr Brown asked questions as follows:

- Had anyone been charged for the alleged incident? Response- no charges had been brought.
- Why was it necessary that the Licence be suspended? Response- this was so that it could be confirmed all necessary conditions were in place.
- What strength could be attached to the incident having taken place? Response- The delay in TVP being informed meant that the evidence was not as conclusive as it could have been.
- Was the missing girl found at Baylis House? Response-no.
- Was there any evidence that the men found in the room had any connection to the incident? Response-no.

Representations made by Baylis House

Mr Winston Brown, of Brown and Co Solicitors, representing Baylis House, addressed the Sub-Committee. He advised that the request for a suspension by TVP had not been notified to Baylis House in advance of the hearing. He advised that he was led to believe that TVP would be satisfied to conclude matters once the conditions were agreed by both parties and he argued that it was unacceptable that the request for a suspension was not disclosed to Baylis House prior to the meeting.

Mr Brown confirmed that Baylis House no longer wished to contest the imposed licence condition which required that photographic ID must be presented from hotel guests. Mr Brown advised that since recent media coverage surrounding CSE issues in Rotherham, Baylis House was committed to help reduce CSE in the local community by any means necessary, even where these impacted adversely on the business.

Mr Brown confirmed that a copy of Photographic ID would be taken as per condition 23 for every room checked in and he apologised in advance to those individuals who did not own a passport or driving licence, or if their ID was left at home, for not being able to stay at the property. He stated that to his

knowledge no other hotel in the area carried out photo-ID checks and that the agreement by Baylis House to this condition clearly demonstrated their commitment to cooperate and help in any way possible in spite of considerable potential detriment to business and the risk to the viability of the company.

Mr Brown refuted the local coverage which made Baylis House out be a CSE hotspot and argued that this allegation was false and based on an unproven incident. He discussed ways in which Baylis House had worked with the Police and Slough Council to make the property and surrounding area as safe as possible for everyone. It was highlighted that 300 events were hosted annually and the need to keep guests safe from harm, whatever their age was paramount. The hotel contributed to setting up CCTV in the area, had neighbourhood meetings on the premises and had recently been involved in talks regarding the uplift of Baylis park.

Mr Brown did not accept that the minutes of the meeting held with TVP were an accurate record. He also advised that there was no evidence whatsoever that the incident concerning the five boys in a room was connected with CSE and that the incident was also not connected in any way to the reported incident earlier in the year. Mr Brown felt that the 24 conditions were sufficient to address the concerns outlined and a suspension should only be imposed if the Sub-Committee was of the opinion that there were ongoing safeguarding issues at the premises. A suspension would inhibit the hotel from trading and this would be a disproportionate action when all conditions had been accepted by Baylis House. Mr Brown stated that he believed the incident in January was still under investigation by the Police, and no one from the hotel who worked that night has been interviewed. He argued that instead of gaining complete eye witness accounts to fully support or disprove the reports of sexual exploitation, Baylis House was being falsely implicated with allegations. The staff member had denied seeing underage girls so there was nothing to report other than a complaint by a guest, over noise levels in another room. Mr Brown advised that the management had dealt with the situation and the noisy occupants were spoken to and evicted from the premises.

Mr Brown advised that when Baylis House were invited to the first meeting, they were not given adequate information as to the purpose of the meeting which meant they were unable to prepare.

Member Questions to Parties included:

- Why did Baylis House feel that they would lose business through a condition? Mr Brown advised that many people would refuse to give photographic ID. The system had been trialled and for example several ladies in their 50's had been unable to check in as they did not have ID available.
- Which conditions had been implemented to date? A list of outstanding conditions was discussed.

- It appeared that there was no formal written handover at nights and this was thought to be inadequate. Baylis House advised that on the night in question the incident was reported verbally.
- Had the alleged incident taken place in the doorway of the bedroom? Mr Brown advised that this was not witnessed by staff so this was speculation.
- How many rooms had been booked by the 5 men? Baylis House advised that only a double room had been booked and this was clearly a security issue.
- Were the two couples in question moved to other rooms? It was confirmed that they left the premises at 4 am but it could not be confirmed whether they had moved rooms.

Summing Up- Mick Sims

The Licensing Manager reminded the Sub-Committee that in accordance with Section 182 Guidance, conditions to be imposed or attached to a premises Licence must be tailored to the individual premises i.e. in this case Baylis House. Further, Members must have regard to the Council's Statement of Licensing Policy.

Summing Up- Debie Pearmain, TVP

Ms Pearmain advised that intelligence re CSE and the incident had suggested that the prevention measures in place were inadequate to promote the 4 licensing objectives. She considered that a suspension of the licence was appropriate until such time as the conditions and the recommendations submitted by Mrs Chalmers were in place.

Sum Up- Mr Brown

Mr Brown was of the opinion that the conditions imposed were adequate and although some work was yet to be done the Licence should continue with the new stringent conditions. He considered that it would only be appropriate to suspend the licence if it was thought that there were ongoing safeguarding issues at the premises. He concluded that the decision and the conditions should be proportionate and he felt that the imposed conditions were adequate in this case.

Decision

The Sub-Committee carefully considered all of the evidence submitted and asked several questions regarding the incidents and management of the hotel.

The Sub-Committee had serious concerns regarding the alleged incidents of child sexual exploitation at Baylis House. However, the Sub-Committee did not have access to all the witness statements due to ongoing prosecutions/ investigations and was therefore unable to form any firm conclusion regarding the alleged incident. It was evident however from that the findings of the

Crime Prevention Survey and the fact that a person entered the hotel without the knowledge of staff that the access to the premises appeared to be insecure.

Having regard to the Licensing Objectives, the Council's Statement of Licensing policy and the Secretary of State's Guidance, the Sub-Committee considered it appropriate and proportionate that the proposed 24 conditions be imposed (as set out in the Annex to this minute) in order to promote the Licensing Objectives. The Sub-Committee also considered that Condition no. 24 should be reworded to make express reference to the recommendations of the Crime Prevention Survey report of 23rd June 2014 as tabled at the meeting.

Despite the Sub-Committee's concern about Baylis House' lack of progress in complying with the conditions to date, the Sub-Committee did not consider that it would be appropriate to suspend the Licence at this time. Instead the Sub-Committee required that all 24 conditions be complied with by 3rd October, 2014.

Resolved- That all 24 conditions requested by Thames Valley Police be complied with by 3rd October, 2014, with the rewording of condition 24 to make express reference to the recommendations of the Crime Prevention Survey report of 23rd June, 2014.

Baylis House, Stoke Poges Lane – Licence conditions imposed

1. Door supervisors will be issued with multi-channel radios capable of communicating with all other door supervisors working at the premises, the designated premises supervisor and town centre radio link and/or Slough Borough Council's CCTV control room.
2. A door supervisor register must be kept which details the full name of the door supervisor and the date and times they started and finished.
3. Door supervisors are required at the venue during any events being held at the premises from 19:00 hours (a ratio of 1 door supervisor per 100 guests) until all patrons have left the premises.
4. Where there Are 5 or more door supervisors at least one must be female.
5. An incident register will be kept to record all incidents of disorder and refusals of admittance at the premise. The Manager and member of staff involved in the incident must sign off each entry. the incident register must remain on the premises at all times.
6. All seizures of controlled drugs must be logged, held securely and the police notified of the seizure.
7. The CCTV system must be working to the satisfaction of Thames Valley Police and the licensing authority.
8. The CCTV system must cover all areas of the premises where licensable activities take place and all the corridors where guest bedrooms are located.
9. CCTV cameras must be in operation at all public entrance and exit points of the premises.
10. CCTV recordings will be maintained for a period of 28 days.
11. If the CCTV equipment fails, the police and the licensing authority will be informed immediately by telephone and immediate steps will be taken to put the equipment back into working order.
12. A notice will be displayed at all entrance points of the premises advising that CCTV is in operation.
13. DPS and/or nominated person to be trained on how to work the CCTV system to the standard where the nominated person can download any potential evidence required by Thames Valley Police, Local Authority Licensing Officers or relevant Agencies.

Licensing Sub-Committee - 02.09.14

14. DPS and/or nominated person is responsible for supplying the necessary media (discs, data stick) containing any downloaded content.
 15. The premises will operate a challenge 25 age verification policy in relation to the sale of alcohol.
 16. A personal licence holder must be present at the premises when alcohol is being sold or supplied and when regulated entertainment is taking place.
 17. A written log along with a copy of each individual's personal licence must be kept and maintained.
 18. Live, recorded music or dance cannot take place within the grounds (outdoors) of the premise after 23:00 hours. This includes any marquee or other temporary structure.
 19. Signage must be displayed at all public exit points to encourage patrons to leave in an orderly and responsible manner.
 20. The use of polycarbonate or non breakable glasses at any events held at the premises will be at the discretion of the management.
 21. All members of staff are to complete child sexual exploitation (CSE) training. Training records including the staff members name and date of training are to be maintained and kept at the premises at all times. Training records must be available for inspection by an authorised officer or police officer.
 22. CSE refresher training must be provided to all members of staff on an annual basis and logged in the training records.
 23. The identity of all individuals who have made a room booking and/or are staying as a hotel guest, must be verified and a copy of their photographic id taken. The copy must be kept for a minimum of six months and be made available for inspection by an authorised officer or police officer.
 24. A crime reduction survey is to be carried out by Thames Valley Police and the recommendations of the survey are to be adhered to.
- 40. Application for new Premises Licence, Gill's Meat Market, 20 Parlaunt Road, Langley, SL3 8BB**

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

The Applicants, Messrs Palwinder Singh Gill and Gurial Singh Gill were represented by Mr Zaiwalla of Chambers Solicitors.

Licensing Sub-Committee - 02.09.14

Introduction by Mick Sims, Licensing Manager, Slough BC

The Senior Licensing Officer referred the Sub-Committee to the report set out in the agenda papers.

It was confirmed that an application was received from Messrs Palwinder Singh Gill and Gurlal Singh Gill, for 20 Parlaunt Road, Langley, SL3 8BB for the following licensable activities at the following times:

Sale by retail of alcohol for consumption OFF the premises only: –

Monday to Saturday: 08:00 – 23:00

Sunday; 10:00 – 22:00

The application was referred to the Sub-Committee for decision as representations were received from 'Other Persons'. The Officer discussed three objections received which raised concerns regarding noise and disruption from other pubs already selling alcohol in the area and anti social behaviour

The Sub-Committee was advised that Thames Valley Police (TVP) had requested that a number of conditions be attached to the licence as set out in the report and the Applicants had agreed to these. The Committee was reminded that it must have regard to the amended guidance issued in June 2014 under section 182 of the Licensing Act 2003 regarding the promotion of the licensing objectives and also to the Council's Statement of Licensing Policy 2014-2019.

The Licensing Manager discussed the options available to the Sub-Committee, which included in summary; to grant the application submitted; grant the application subject to further reasonable conditions; or refuse the application.

Questions to the Licensing Manager

A number of questions were asked by Members including the location of the other licensed premises referred to by the objectors.

Submission by the Applicant

Mr Zaiwalla advised that the Applicants who were brothers, had lived in the locality for some years and owned two other off licenses. They were both responsible individuals and had experience of operating off-licensed premises. The Sub-Committee was advised that TVP had placed suitable conditions in place which would deal with any concerns raised and the Applicants had agreed to these. He reassured Members that staff would be trained and the premises would have adequate staff numbers at all times. None of the premises managed by the Applicants had ever failed a test purchase and he urged the Sub-Committee to grant the application.

Licensing Sub-Committee - 02.09.14

Questions to the Applicant's Representative

Members asked a number of questions relating to the background of the premises.

Summing Up

Mr Sims advised that there were no reports of problems at the premises and none of the Objectors had attended the meeting to address the Sub-Committee.

The Applicant's Representative confirmed his case as previously submitted.

Following the summing up, the parties left the meeting at 2.45 pm in order for the Sub-Committee to deliberate.

Decision

The Sub-Committee re-convened at 2.55 pm and all parties were asked to re-join the meeting when the decision was announced.

Resolved- That the premises be issued with a licence as set out within the annexe to this minutes, subject to the conditions imposed.

Gill's Meat Market, 20 Parlaunt Road, Langley, SL3 8BB-Licence Granted

Sale by retail of alcohol for consumption OFF the premises only: –

Monday to Saturday: 08:00 – 23:00

Sunday; 10:00 – 22:00

- (a) Digital CCTV monitoring system to be installed and maintained to Thames Valley Police standard (i.e. CCTV images are clear and of an evidential quality and the system clock should be set correctly and kept accurate) . Recordings to be kept securely for 31 days and made available to Police, Local Authority Licensing Officers or relevant Agencies on request.
- (b) Nominated person to be trained on how to work the CCTV system to the standard where the nominated person can download any potential evidence required by Thames Valley Police employees and Local Authority Licensing Officers.
- (c) Nominated person is responsible in supplying the necessary media (discs, data stick) containing any downloaded content.
- (d) Challenge 25 policy to be in place.
- (e) Refusals Register to be on the premises and kept up to date and made available upon the request of Police, Trading Standards Officer and Local Authority Licensing Officers.

Chair

(Note: The Meeting opened at 10.12 am and closed at 2.55 pm)

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Licensing Sub-Committee – Meeting held on Thursday, 25th September, 2014.

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

Officers Present:- Teresa Clark, Senior Democratic Services Officer
Neil Fraser, Trainee Democratic Services Officer
Dean Cooke, Senior Trading Standards Officer
Melanie Sagar, Licensing Officer
Michael Sims, Licensing Manager
Niall Toru, Solicitor

PART 1

41. Declarations of Interest

None were declared.

42. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the Guidance on Predetermination/Predisposition.

43. Premises Licence Review, Drinks Direct, 256 High Street, Langley, Slough SL3 8HA

At the commencement of the hearing Mr Somarakis of Gordon Dadds Solicitors, representing Mr Balbir Singh, made an application for a deferral of the hearing due to the inclusion of statements within the Committee papers that in his opinion should not have been included. He was concerned that these statements could prejudice Mr Singh's right to a fair hearing and requested that the review application be decided by a newly constituted Sub-Committee.

The Sub-Committee adjourned to consider the application and, following advice from Mr Toru, Solicitor for the Sub-Committee, determined that there would be no breach of Article 6 of the European Convention of Human Rights (the right to a fair trial) should the hearing continue. The request for a fresh hearing was rejected.

During the presentation of evidence by Thames Valley Police Officers, further verbal information was divulged which was not included in the police's written representations circulated to the parties before the hearing. Given the nature of this addition information Mr Somarakis made a further application for a deferral, on the grounds that this information should not have been disclosed and would prejudice Mr Singh's right to a fair hearing. The Sub-Committee accepted this second application and determined that the hearing be adjourned until such time as a newly-constituted Sub-Committee could be convened.

Licensing Sub-Committee - 25.09.14

Resolved- That the hearing of the Premises Review be rescheduled for determination by a newly convened Sub-Committee with new Members.

44. **Premises Licence Review, Metro Food and Wine (Slough Ltd), 193 Farnham Road, Slough**

Following introductions the procedure for the hearing was outlined. The Chair confirmed that all parties had received a copy of the relevant paperwork. Mr Gaba attended the hearing and was represented by Mr Somarakis of Gordon Dadds Solicitors and Mr Panchal of Personal Licensing Courses Ltd.

Introduction by Melanie Sagar, Licensing Officer, Slough BC

Ms Sagar, Licensing Officer, introduced the report and advised that the premises licence review for Metro Food and Wine (Slough) Ltd, had been brought by the Licensing Manager on behalf of the Authority.

Mick Sims, Licensing Manager, Slough BC

Mr Mick Sims, Licensing Manager, outlined a report which related to an application for a Review of the Premises Licence for Metro Food and Wine (Slough) Limited, 193 Farnham Road. Mr Sims confirmed that he was the Applicant, on behalf of the Licensing Authority and he maintained that the Review was necessary as this was the second such occasion that Mr Gaba had been subject of possession of illegal products and this clearly showed his total disregard for the law and for public health and safety as counterfeit alcohol, and illegal cigarettes, could pose a serious health hazard to any member of the public that purchased them.

The Officer discussed the recommendations and the options available to the Committee as set out in the report and the Sub-Committee was reminded of the need to have regard to the principles for making decisions, and the relevant policy and legislation when reaching its decision. Members were also requested to consider and make use of the 'Yellow and Red Card' system as directed and recommended by The Department of Culture, Media and Sport (DCMS), and also to have regard to Slough Borough Council's Revised Statement of Licensing Policy 2014-2019.

The Officer confirmed that the Designated Premises Supervisor was Mr Gaba, who was responsible for the day to day management of the premises.

The Licensing Authority was satisfied that the application for a Review met the appropriate legislative requirements within the Licensing Act 2003 and was therefore a valid application to be considered by the Licensing Sub-Committee

Background to the Review Application

Mr Sims, set out the background to the review application.

Licensing Sub-Committee - 25.09.14

Members noted that in 2007 the previous licence holder of the premises was convicted of the possession of counterfeit alcohol and in 2009 he was further convicted along with a staff member and the company for possession of illegal cigarettes. Mr Gaba became the owner of the business in November/December 2009.

On 26th April 2010 Trading Standards officers seized counterfeit Bollinger Champagne from the premises and both Mr Gaba and Metro Food and Wine Limited were prosecuted and convicted of a number of offences relating to this seizure.

In May 2010, Mr Gaba made an application to transfer the Premises Licence, transfer the role of the DPS to himself and change the name of the premises to Metro Food and Wine (Slough) Limited. On 8th January 2014, Trading Standards Officers visited the premises and seized 150 packets of illegal cigarettes which were hidden under shelving in the front store. The cigarettes carried no English health warnings and bore no statutory pictorial health warnings. The Officer reminded the Sub-Committee that possession of the items constituted offences under the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2007 and the Consumer Protection Act 1987. It was highlighted that Mr Gaba would be the subject of legal proceedings for possession of the illegal cigarettes.

The Applicant recommended that due to the illegal activities that continued to take place at the premises, the premises be issued with a Red Card and the Premises Licence be revoked. The reasoning for this was the history and track record of the premises, particularly with regards to Mr Gaba's involvement in the business.

Representations made by Mr Cooke, Senior Trading Standards Officer, Slough BC

The Officer advised that on 8th January 2014, a visit was made to Metro Food and Wine (Slough) Ltd, 193 Farnham Road, Slough, for a routine premises inspection. A number of items were found, that contravened consumer protection legislation.

Behind the main counter, five pouches of 'Udta Panchhi' chewing tobacco were found, without the correct statutory health warnings on the packaging. A close inspection of shelving showed that space underneath was being used to store illegal cigarettes. These cigarettes bore no English health warnings or pictorial labelling. The Officer concluded that these items were smuggled, had not been subject to tax or duty, and were an obvious health risk to whoever purchased them. It was confirmed that the street value of these items was approximately £1,050.00.

Mr Cooke confirmed that as the legal owner of the business, Mr Gaba was the legal owner of all items found on the premises. The Officer advised that Mr

Licensing Sub-Committee - 25.09.14

Gaba's employment under the previous owners of the business would have given him first hand experience of the consequences for such actions, and that it was clear that no due diligence had been observed to ensure the business complied with the law. Furthermore, the fact that the items were hidden suggested that it was known that such items were illegal.

The Officer stated that the history of the business and the ongoing behaviour at the premises showed a blatant disregard for the law, and that by purchasing such illegal items for sale at the premises, Mr Gaba was seeking to obtain an unfair market advantage over honest traders. The Officer therefore supported a revocation of the Licence in view of the history and track record of the premises, together with Mr Gaba's involvement with the business.

Representations made by Ms Pearmain, Thames Valley Police (TVP)

Ms Pearmain addressed the Sub-Committee and confirmed that Mr Gaba was being investigated for trading Standards offences. It was confirmed that this was the second such occasion that Mr Gaba had been found to have illegal products at the premises.

The Officer concluded that Mr Gaba had no regard for the law, and she supported the application for a revocation of the licence.

Questions

A Member asked Mr Gaba to confirm his understanding of the four licensing objectives. Mr Gaba was unable to do so. When pressed as to why he did not know the objectives, Mr Gaba confirmed that these were unknown to him until Trading Standards made him aware of them.

A Member went on to ask Mr Panchal whether, as part of the training provided to clients such as Mr Gaba, the four licensing objectives were confirmed. Mr Panchal replied that these were taught to all clients, but the onus to retain the information was on the client themselves.

A Member sought clarification as to Mr Gaba's role at Metro Food and Wine prior to becoming owner, and his relationship to the previous owners. Mr Gaba confirmed that when he worked at the premises previously he was employed to stack shelves. He advised that the previous owners were his cousins and that although they were close he was not aware of the previous activities and convictions at the premises.

Mr Gaba was asked to confirm how much time he spent daily at the shop, and how he had not noticed the marks on the floor which suggested that the area was being used to hide the illicit products. Mr Gaba confirmed that he spent approximately four hours at the premises daily, before moving on to his second business. With regard to the floor, Mr Gaba advised that he had not noticed the marks.

Licensing Sub-Committee - 25.09.14

Mr Cooke advised that during the PACE interview held on 22nd January 2014, Mr Gaba was asked whether he was aware that the items had been purchased by Mr Singh, Mr Gaba had confirmed that Mr Singh had telephoned him to ask permission to purchase the cigarettes, and that the money to purchase the items had come from the till.

Mr Somarakis accepted that this was the context of the interview, and agreed that Mr Gaba allowed Mr Singh to purchase the cigarettes. However, Mr Gaba had not instructed Mr Singh to purchase illegal cigarettes.

A Member asked whether Mr Gaba had inspected the goods he had instructed Mr Singh to purchase. Mr Gaba replied that he had not.

Representations made by Metro Food and Wine

Mr Somarakis, of Gordon Dadds Solicitors, representing Mr Gaba, made the following representations:

- The track history of the premises before Mr Gaba assumed ownership was irrelevant and the Sub-Committee was directed to review only the history of the premises since Mr Gaba had become the Licence Holder and DPS. Since then, there had been no suggestion of wrongdoing beyond possession of counterfeit Bollinger champagne in 2010, and the most recent issue regarding the illegal cigarettes.
- As the owner of multiple businesses, Mr Gaba had left the day to day running of Metro Food and Wine (Slough) Ltd to a staff member, Mr Singh. It was Mr Singh who purchased the cigarettes, and stored them within the premises. Mr Gaba was unaware that the cigarettes were illegal, that they had been hidden within the store, and that Mr Singh was selling them on the premises. Mr Gaba had subsequently dismissed the staff member.
- Since the incident in question Mr Gaba had been vigilant in conducting stock checks and reviewing CCTV footage to allay any further wrongdoing.
- Prior to this most recent incident, Trading Standards had visited the premises on several occasions over a four year period and found that nothing was out of order and that Mr Gaba was fully compliant with the licence conditions.
- Mr Somarakis suggested several conditions that could be imposed on the licence, including instigating training for all new staff and that all stock purchases must be made at wholesalers such as Cash and Carry with valid receipts for inspection and the appointment of a new DPS.
- Mr Somarakis concluded that the imposition of a red card and the revocation of the licence would not be proportionate in this case.

Mr Panchal confirmed that he offered training to licence holders such as Mr Gaba. This training was designed to provide such clients with sufficient knowledge of the licensing objectives and laws to ensure that they could successfully abide by and promote the objectives throughout their tenure as license holders. Mr Panchal confirmed that Mr Gaba was a client, and that Mr Gaba also instructed all staff to attend Mr Panchal's training as standard.

Licensing Sub-Committee - 25.09.14

Summing Up- Mick Sims

Mr Sims was satisfied that the evidence clearly demonstrated that Mr Gaba and his staff did not observe the requirements of the Licensing Act and had failed to promote the licensing objectives. The Sub-Committee was reminded that the sale of illegal tobacco products was a serious offence. He re-iterated that Mr Gaba was the Licence Holder and Designated Premises Supervisor. It was therefore his responsibility to comply with the conditions of his Licence and not the responsibility of his staff.

Mr Sims reminded the Sub-Committee that guidance from the Secretary of State indicated that failures which could lead to the prevention of children from harm were completely unacceptable. Mr Sims therefore concluded that the Sub-Committee should issue a red card and revoke the Licence, and that this action would be proportionate.

Summing Up- Metro Food and Wine

Mr Somarakis reiterated that Mr Gaba was not aware of the illegal activities being conducted at his premises, and that the history of the premises prior to Mr Gaba's ownership was not relevant.

Mr Somarakis went on to confirm that Mr Gaba's only prior misdemeanour, the counterfeit Bollinger champagne, was over four years prior, and that Mr Gaba had received a nominal punishment for this.

Mr Somarakis outlined the suggested conditions that the Sub-Committee could impose upon Mr Gaba's premises license, which included:

- The stipulation that all goods must be purchased from a reputable wholesaler such as Cash and Carry, with valid receipts for inspection;
- That periodic audits could be undertaken to ensure all retail areas were not used to hide illicit products;
- That the Sub-Committee could consider naming someone else to act as DPS for the premises;

Mr Somarakis concluded by asserting that a Red Card and revocation of the premises license would not be proportionate in this case.

Decision

The Sub-Committee carefully considered all of the evidence submitted and asked several questions regarding the incidents and management of the premises. With regard to the finding of illicit tobacco products bearing no English health warning, Members were mindful that supplying such products was an offence under the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, as amended by the Consumer Protection Act 1987.

Licensing Sub-Committee - 25.09.14

In reaching its decision the Sub-Committee had regard to its duty to promote the licensing objectives, and in particular to the 'Prevention of Crime and Disorder' and the 'Protection of Children from Harm'.

When reviewing the evidence the Sub-Committee had particular regard to the following points:

1. Mr Gaba's apparent lack of understanding of the licensing objectives when asked what these were - and therefore his inability to promote them;
2. Apparent inconsistencies in the evidence presented by Mr Gaba, for example statements made by Mr Gaba during the pace interview that Mr Gaba subsequently refuted at the hearing;
3. A lack of credibility in Mr Gaba's assertion that he was not aware that the cigarettes purchased were illegal, and that they were being stored on the premises;
4. Concerns over the history of illegal activity at the premises, and Mr Gaba's involvement with the business previously (though this factor was given less weight).

The Sub-Committee noted Mr Gaba's assertion that the actions taken by his staff were not known to him, however it was confirmed that the Designated Premises Supervisor was responsible for the actions undertaken at his/her premises. In view of the above points, the Sub-Committee unanimously decided to revoke the Premises Licence and considered the penalty to be proportionate in this case.

Resolved- That the Premises Licence be revoked.

45. Committee Reconvened

The Sub-Committee concluded matters considered under the Licensing Act 2003. The Sub-Committee then reconvened as the General Licensing Sub-Committee to consider an application for a private hire drivers' licence.

46. Exclusion of the Press and Public

Resolved – That the press and public be excluded from the remainder of the meeting as the items to be considered contained exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

47. Private Hire Driver Application (Reference 01-14)

The Licensing Sub-Committee was asked to consider whether Applicant (Reference 01-14) was a fit and proper person to be granted a private hire drivers licence.

Mick Sims, Licensing Manager, summarised the background to the application where Thames Valley Police (TVP) had highlighted the existence

Licensing Sub-Committee - 25.09.14

of 'other relevant information' on a DBS certificate leading to the referral of the application to the Sub-Committee. The Applicant had advised that he was currently licensed with Cherwell District Council and that he wished to be licensed by Slough Borough Council as had moved to the area.

The Officer advised that the Applicant had previously received a fixed penalty notice, had committed two driving offences and was stopped in Slough during a taxi check operation and found to have a defective tyre. At this time it was discovered that he was working for a Slough Operator and regularly worked in Slough.

The Sub-Committee was advised that the DBS certificate indicated that a number of separate allegations were against the Applicant but TVP were unable to pursue any further action due to lack of witnesses and parties willing to act as a witness. TVP considered however that the information disclosed indicated that the Applicant may pose a risk and this outweighed any prejudicial impact to the Applicant.

The Applicant addressed the Sub-Committee and denied the accusations. He advised that his Solicitor had contacted the DBS in July to ask why the alleged incidents were added to the certificate eight years after they allegedly took place when no charges were ever made, but no response had been received. The Applicant made reference to his financial circumstances but the Officer reminded the Sub-Committee that this was not a relevant consideration in determining his application review (the case of *Cherwell District Council v Anwar* had dealt with this issue).

The Sub-Committee asked the Applicant a number of questions of detail. The Applicant denied that any of the alleged incidents took place and he requested that the Sub-Committee grant him a licence.

The Sub-Committee carefully considered all the evidence at its disposal. The Sub-Committee was aware that a person need not necessarily have been convicted or cautioned in respect of a criminal offence for their behaviour to be taken into account when deciding whether to grant a Licence.

Having carefully considered all the evidence the Sub Committee:

Resolved – That the Applicant's (Ref 01-14) Private Hire Licence application be refused.

Chair

(Note: The Meeting opened at 10.20 am and closed at 3.40 pm)

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