

Licensing Act Sub-Committee - Record of Hearing held on Wednesday 6 March 2013 at 6.00pm

MEMBERS: Councillor SHUTTLEWORTH (Chairman); Councillors COOKE and Mrs HEARN.

1 Declarations of Disclosable Pecuniary Interests (DPIs).

None were received.

2 Designated Premises Supervisor – SQ Convenience Store, 16 Station Parade.

The Chairman introduced members and officers present and detailed the procedure to be followed at the meeting.

The Senior Specialist Advisor outlined the report regarding a Police objection to an application to vary a premises licence to specify an individual as the Designated Premises Supervisor for SQ Convenience Store.

An application had been submitted to vary a premises licence to specify that the Designated Premises Supervisor for the site would be Mr Sultan Rahmani.

The Police are able to object to the designation of a new premises supervisor where, in exceptional circumstances, they believe that the appointment would undermine the prevention of crime and disorder licensing objective.

An objection notice had been submitted by Sussex Police stating the reasons why the appointment would undermine the crime prevention objective and this was appended to the report.

The Senior Specialist advised the Sub-Committee that in their decision making, they must limit consideration of the matter only to the prevention of crime and disorder licensing objective.

Sergeant Vokins on behalf of Sussex Police addressed the Sub-Committee and explained the reasons why there were exceptional circumstances in this case and that if the application was granted, it would undermine the crime prevention objective.

Sussex Police believed that Mr Sultan Rahmani did not have sufficient experience in the running of licensed premises to prevent the incidents of crime and disorder in the surrounding area from being exacerbated. Sergeant Vokins then detailed several visits to the premises where it was discovered that the condition attached to the licence that stipulated that all alcohol would be sold behind the counter was not adhered to.

Sergeant Vokins then made reference to the recent review hearing of SQ Convenience Store on the 25th February 2013, where it was clarified by the Council's Legal Advisor that although the condition was taken from the

licensing operating schedule and perhaps not as clear as it should be, the floor plan submitted with the application did display the sale of all alcohol behind the counter. At the hearing on the 25th February 2013, Mr Mehrab Rahmani, the previous designated premises supervisor had reassured the Sub-Committee that the issue regarding the placement of alcohol would be resolved following the hearing.

Following this reassurance Sergeant Vokins detailed another visit that he made to the premises, along with Mrs Cathy Wolfe, also present at the hearing. Sergeant Vokins informed the Sub-Committee that he was surprised that the premises seemed to have a focus on alcohol sales which contradicted the original application which had indicated that alcohol would not be a significant part of the premises. This was seen as a breach of the licence and demonstrated that Mr Sultan Rahmani, also the co-licence holder did not have an understanding of the licensing conditions attached to the premises.

Sergeant Vokins also made reference to an attached schedule of incidents involving street drinkers within Eastbourne Town Centre for the period of 1st April 2012 – 15th February 2013, appended to the report. There had been a reported 486 incidents involving street drinkers although following a question from the Sub-Committee, Sergeant Vokins clarified that no incident on the schedule related directly to the premises but occurred within a close proximity.

The Lawyer to the Council clarified to those present at the hearing that while a process existed for considering alleged breaches of licensing conditions, this hearing had been convened to consider police concerns specific to Mr Sultan Rahmani's application. The question for the Sub-Committee was whether Mr Sultan Rahmani's appointment as Designated Premises Supervisor gave rise to concerns which were exceptional in the terms outlined in the Section 182 guidance.

Mrs Cathy Wolfe, also representing Sussex Police addressed the Sub-Committee and explained that Sussex Police were keen to work with Mr Sultan Rahmani and his brother to help promote the four licensing objectives. Mrs Wolfe did reiterate however that Sussex Police believed Mr Sultan Rahmani did not have the experience or knowledge of his licence and seemed unaware about Sussex Police's concern with the premises. Mrs Wolfe continued that while Mr Sultan Rahmani was experienced in sales, his lack of experience in running off licensed premises leaves the premises vulnerable to street drinkers.

Mr Hussain, representing Mr Sultan Rahmani addressed the Sub-Committee in response to the representations made by Sussex Police. He advised that two further visits had been made from Sussex Police to the premises, prior to the hearing tonight and all alcohol around the store had been removed and placed behind the counter.

Mr Hussain enquired as to the process that led to Mr Sultan Rahmani acquiring a personal licence. It was clarified that all the relevant checks had been made and no issues had arisen during the application process.

Mr Hussain stated that the majority of Sussex Polices' representation had focused on the premises and the amount of incidents involving street drinkers within Eastbourne Town Centre rather than focus on the application

of Mr Sultan Rahmani as Designated Premises Supervisor. He stated that insufficient evidence had been provided to suggest that the appointment would undermine the prevention of crime and disorder licensing objective. Mr Hussain believed that Sussex Police's concern over Mr Sultan Rahmani's lack of experience did not constitute exceptional circumstances.

Mr Sultan Rahmani addressed the Sub-Committee clarifying that he did have sufficient experience running off licensed premises.

In a response to a question from Mr Hussain, Sergeant Vokins informed the Sub-Committee that apart from Mr Sultan Rahmani's lack of experience, there was no other evidence that constituted exceptional circumstances.

Mr Hussain concluded by reiterating that Mr Sultan Rahmani's lack of experience did not constitute exceptional circumstances and that any concerns Sussex Police had with the premises, although not relevant to tonight's hearing had been resolved. Mr Hussain also made reference to Section 182 of the Licensing Act 2003 in support of Mr Sultan Rahmani.

The Sub-Committee then retired to consider and determine the application having regard to the representations submitted, guidance under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the prevention of crime and disorder licensing objective.

Having taken into account all the relevant considerations the Sub-Committee reconvened and announced the decision as follows.

RESOLVED: That the application to specify Mr Sultan Rahmani as Designated Premises Supervisor be approved for the reasons as set out in the attached appendix.

The meeting closed at 6.50 p.m.

**A Shuttleworth
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Wednesday 6 March 2013

Applicant:	Mr Sultan Rahmani
Premises:	SQ Convenience Store, 16 Station Parade.
Reasons for Hearing:	Objection Notice received by Sussex Police to the appointment of the specified designated premises supervisor under the prevention of crime from harm licensing objective.
Parties in attendance:	<p>Applicant: Mr Sultan Rehmani (Designated Premises Supervisor), Mr Mehrab Rahmani (Co-Licence Holder) and Mr Hussain (Barrister)</p> <p>Responsible Authorities: Mrs Cathy Wolfe (Sussex Police) and Sergeant Vokins (Sussex Police)</p> <p>Licensing Authority: Mr Jay Virgo (Senior Specialist Advisor) and Ms Victoria Simpson (Lawyer to the Council).</p>
Decision made:	That the application to specify Mr Sultan Rahmani as Designated Premises Supervisor be approved.
Reasons for Decision:	<p>The Sub-Committee has approved the application to specify Mr Sultan Rahmani as the Designated Premises Supervisor having given due weight to the evidence placed before it, as well as guidance under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the prevention of crime licensing objective.</p> <p>The Sub-Committee considered that the submissions made by Sussex Police regarding Mr Sultan Rahmani's lack of experience running off-licensed premises did not constitute exceptional circumstances pursuant to the guidance issued under Section 182</p> <p>It was acknowledged that there had been some confusion regarding the conditions imposed on SQ Convenience Store, namely the positioning of alcohol behind the counter. The Sub-Committee were pleased that this confusion had now been resolved.</p>
Date of Decision:	6 March 2013
Date decision notice	14 March 2013

issued:

A written or electronic copy of this Notice will be publicly available to all Parties and published on the Council's website.

RIGHT OF APPEAL

Under the provisions of S.181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal against the decision of the Licensing Sub-Committee, should you be aggrieved at the outcome.

This right of appeal extends to the applicant in the case of refusal and to the police who have made representations where the licence has been granted.

Full details of all the rights of appeal can be found within Schedule 5 of the Act. If parties wish to appeal against the Sub-Committee's decision, this must be made to the Magistrates Court, Old Orchard Road, Eastbourne, BN21 1DB within 21 days of receipt of this decision notice.