

Body: Licensing Sub Committee

Date: 6th March 2013

Subject: SQ Convenience Store, 16 Station Parade, Eastbourne, BN21 1BE

Designated Premises Supervisor Mr S Rahmani

Report Of: Jay Virgo, Senior Specialist Advisor

Ward(s) Upperton Ward

Purpose To Determine a Police Objection to an Application to Vary an Individual as a Designated Premises Supervisor

Contact: Jay Virgo, Senior Specialist Advisor, Telephone 01323 415933 or internally on extension 5933

E-mail address: jay.virgo@eastbourne.gov.uk

1.0 Background

- 1.1 The purpose of this report is to consider a Police objection to an application to vary a premises licence to specify an individual as the Designated Premises Supervisor (DPS) under the Licensing Act 2003.

2.0 Application & Consultation Process

- 2.1 The Licensing Act 2003 allows the Premises Licence holder to make an application to vary the Premises Licence to specify a DPS
- 2.2 The application must be made to the relevant Licensing Authority accompanied by the prescribed fee and a copy must also be served simultaneously on the Police.
- 2.3 A copy of the application made by SQ Convenience Store Ltd is included as Appendix 1.

3.0 Police Objection

- 3.1 When the Police are satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, they must give the Licensing Authority a notice stating the reasons for this.
- 3.2 The Police Objection Notice and supporting evidence is included as Appendix 2 and was lodged on the 18th February 2013.

4.0 The Hearing

- 4.1 The Licensing Authority must hold a hearing to consider the Police Objection Notice, unless all parties agree it is unnecessary. The hearing must be held within 20 working days from the last day that the Police could have objected. The last day that the Police could object was the 19th February 2013.

- 4.2 At any time before the hearing, the Police may withdraw the notice.
- 4.3 Following the hearing, the Licensing Authority must give notice of the decision to the Premises Licence Holder (or their agent), the proposed DPS and the Police
- 4.4 The relevant section (paragraphs 4.26 to 4.28) of the Home Office guidance issued under section 182 of the Licensing Act 2003 relating to Police objections to a proposed new DPS is attached as Appendix 3.

5.0 The Decision Making Process - The Licensing Objectives

- 5.1 In their decision making, the Licensing Sub Committee must limit consideration of the matter only to the prevention of crime and disorder objective.

6.0 Eastbourne Borough Council's Statement of Licensing Policy-Summary

NB. Copies previously circulated as reference material to Members. It can also be located at. www.eastbourne.gov.uk/licensing

- 6.1 Whilst each application will be considered on its merits, the Licensing Sub Committee will have due regard for the Eastbourne Borough Council's Licensing Statement, adopted in February 2011, in respect of the Licensing Act 2003:

6.2 The Prevention of Crime and Disorder

The Council's Statement of Licensing Policy states that the premises' Operating Schedule should include steps to ensure the deterrence and prevention of crime and disorder on and in the vicinity of premises. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate in order to promote the Licensing Objectives.

7.0 Options open to the Committee

- 7.1 When determining the application from SQ Convenience Store, the Licensing Sub Committee must consider that it is appropriate for the promotion of the prevention of crime and disorder objective to either:

- Grant the application to vary the Designated Premises Supervisor
- Reject the application to vary the Designated Premises Supervisor

8.0 Legal Considerations

- 8.1 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore beyond the direct control of the individual, club or business to which the licence, certificate or authorisation relates.

- 8.2 Licensing is about the appropriate management and control of licensed premises, qualifying clubs and temporary events and the associated licensable activities governed by the Licensing Act 2003. Any conditions attached to licences, certificates and permissions will focus on matters which are within the control of the Designated Premises Supervisor and/or their nominated representative, and will centre on the premises themselves and their immediate vicinity.
- 8.3 When considering these terms and conditions the Sub Committee will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in activity in the area concerned.

9.0 Human Rights

- 9.1 The provisions of the Human Rights Act 1998, must be borne in mind by the Committee when taking licensing decisions under the Licensing Act 2003. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property. Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

Background Material

- Licensing Act 2003
- LACORS Guidance – Committee Hearings
- Section 182 Statutory Guidance to the Licensing Act 2003, revised January 2010.
- Hearing and Regulations, Licensing Act 2003
- Eastbourne Borough Council's Licensing Statement
- Human Rights Act 1998