

Date of issue: Monday 18th September 2017

MEETING:	LICENSING SUB-COMMITTEE (Councillors Rasib (Chair), A Sandhu and Strutton)
DATE AND TIME:	TUESDAY, 26TH SEPTEMBER, 2017 AT 10.00 AM
VENUE:	VENUS SUITE 2, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE, SL1 3UF
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 01753 787503

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.



ROGER PARKIN
Interim Chief Executive

AGENDA

PART I

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Apologies for absence.

CONSTITUTIONAL MATTERS

1. Declarations of Interest

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 described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the

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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.

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| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 | - |
| 3. | Minutes of the Meeting held on 15th August 2017 | 3 - 10 | - |

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.

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| 4. | Exclusion of the Press and Public | - | - |
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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

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| 5. | Private Hire Driver Conduct Hearing - (Reference 01-17) | 11 - 24 | All |
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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. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings. 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.



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, 15th August, 2017.

Present:- Councillors Rasib (Chair), Davis and Wright.

Officers Present:- Mick Sims (Licensing Manager), Rachael Rumney (Senior Licensing Officer), Shabana Kauser (Senior Democratic Services Officer), Alison Peters (Legal Representative), Nabihah Hassan-Farooq (Democratic Services Officer)

PART 1

1. Declarations of Interest

Agenda Item 4, Grover Superstore, 2 Canterbury Avenue: Councillor Rasib declared that the premises were located in his ward. He stated that he would consider the matter with an open mind.

2. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

3. Minutes of the Last Meeting held on 16 January 2017

Resolved- That the minutes of the last meeting held on the 16th January 2017, be approved as a correct record.

4. Premises Licence Review - Grover Superstore, 2 Canterbury Avenue, Slough

The Sub-Committee considered details of a review of the Premises Licence for Grover Superstore, requested by the Licensing Authority under Section 5 of the Licensing Act 2003. It was noted that the review had been submitted by the Licensing Manager on behalf of the Licensing Authority.

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 the Licensing Officer

Mrs Rumney, Senior Licensing Officer introduced the report and advised that a premises licence review for Grover Superstore, 2 Canterbury Avenue, Slough, SL2 1EQ was bought by the Licensing Manager on behalf of the Licensing Authority. Members were reminded of the relevant policy and legislative framework within which the matter had to be considered.

The Sub-Committee were advised that that the Licensed Premises had been subject to three separate seizures by Trading Standards Officers of illicit tobacco products, sale of alcohol to a minor and breach of mandatory

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premises licence condition on a CCTV system operating to the satisfaction of Thames Valley Police (TVP) and the Licensing Authority.

Questions to the Licensing Officer

Sub- Committee Members asked for clarification when Trading Standards had conducted an operation using the tobacco detection dog. It was noted that this had taken place in March 2017 and not May 2017 as stated in the report. It was also highlighted that the number of illicit tobacco products seized in September 2014 totalled 210 and not 2010 packs as referred to within the report.

Members also asked for clarification as to why appropriate measures had not been taken following the first incident at the premises in September 2014. It was advised that although Trading Standards had submitted an application for a review of the Premises Licence, this had not been actioned upon by the Licensing Team.

Representations by the Responsible Authority

Mr Sims, Licensing Manager outlined the reasons why a review of the Premises Licence had been submitted on behalf of the Licensing Authority. PC Shardlow of Thames Valley Police, Mr Adshead of Trading Standards and Mr Cooke of Trading Standards were also in attendance.

Members were informed that the grounds for the review related to three of the Licensing Objectives not being met, namely the Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm.

Details of the incidents and grounds for review were outlined:-

Tobacco and Food Infringements

9th September 2014. Trading Standards Officers seized illicit tobacco products, totalling 210 packets of cigarettes and 12 x 50g pouches of hand rolling tobacco. All items seized bore no English Department of Health warnings and no statutory pictorial health warnings.

24th September 2015. Trading Standards officers seized a quantity of pouches of chewing tobacco, Cutters Choice hand rolling tobacco, as well as out of date food products.

15th March 2017. An operation was undertaken by Trading Standards Officers, whereby a tobacco detection dog was taken to the premises and illicit tobacco products were seized. Officers seized 3x 50g pouches of Golden Virginia hand rolling tobacco, 5 x 50g pouches of Amber Leaf hand rolling tobacco, 4 packs of 20 L&M cigarettes and one pack of Marlborough Gold cigarettes, 7 packs of Benson and Hedges cigarettes, 7 packs of 20 John Player Gold Leaf cigarettes, 7 packs of Marlborough Gold cigarettes and one pack of 20 Pall Mall Blue cigarettes.

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Sale of Alcohol Infringements

21st November 2015. Following an underage test purchase at the Premises using two volunteers, a sale of alcohol took place to a 13 year old female volunteer and a 15 year old male volunteer. It was noted that the sale was conducted by the Designated Premises Supervisor (DPS) and neither of the volunteers were asked for identification, nor was any clarity on their age sought.

Other Infringements of Premises Licence Conditions

21st November 2015. Police Officers in attendance at the Licensed Premises noted that the CCTV system was displaying an incorrect time and that this constituted a breach of mandatory Condition 3 of the Premises Licence which required that the CCTV system to be working to the satisfaction of Thames Valley Police.

Given that Mr Grover had previously been served with two cautions, namely in February 2015 and February 2016, the Licensing Manager stated that in his view, there were no additional conditions that could be imposed on the Premises Licence that would prevent further criminal activities taking place at the licenced premises. Sub-Committee Members were requested to give serious consideration to issuing the premises with a Red Card in accordance with guidance issued by The Department of Culture, Media and Sport, and that the premise licence be revoked.

Questions to the Responsible Authority

The Sub-Committee sought clarification into the inspections that had been carried out at the premises. Members were informed that 2 visits prior to 2014 had been carried out at the premises, following which Mr Grover had removed himself as the Designated Premises Supervisor (DPS) and appointed his wife to this role.

Representations by Mr Grover, Premise Licence Holder

Ms Bal Sandhu of Justin Law Solicitors addressed the Sub-Committee, and stated that Mr Grover had operated the business for 11 years and this was the main source of income. It was noted that Mr Grover was a family man with three young children to support.

It was accepted that although sales of illegal tobacco products had been made by Mr Grover, he stated that he did not realise at the time of seizure that they were illegal products. It was submitted that since the seizures all goods were only purchased from wholesale cash and carry's to prove purchase.

Referring to the sale of alcohol to a minor, Mr Grover explained that the individual was very tall and did not look his age.

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Members were informed that the CCTV System at the premises had recently been updated. In addition, new members of staff had been employed, who had received the appropriate training, ensuring that regular identification checks were carried out.

Questions to the Premises Licence Holder

A Member questioned why the volunteers were not challenged for identification. Mr Grover advised that when the underage purchase test was conducted the volunteers appeared to look old enough to purchase alcohol and tobacco. Mr Grover stated that he would normally challenge customers but that on this occasion he was distracted by deliveries being made to the store.

It was put to Mr Grover that as the Premise License Holder it was his responsibility to be aware of what was going on at the store. Mr Grover advised that the subsequent tobacco seizures were left in an old stock cupboard and were there without his knowledge. He advised the Sub-Committee that he had asked his staff to remove these products from the premises, but that this had not been done. He also advised that he was not present at the Licensed Premises when the third seizure took place as he was busy with the arrival of his new baby and he had left the operational running of the Licensed Premises to his staff. The Sub-Committee were advised that those staff members had now been replaced and further training had been provided.

Ms Sandhu requested that having taken into account the changes made at the premises, the Sub-Committee consider imposing further conditions on the Premises Licence and that the Premises Licence not be revoked.

Summing up

All parties were provided with an opportunity to provide a summary.

The Senior Licensing Officer reminded the Sub-Committee of the options available.

Mr Sims reiterated that there were no further conditions that could be imposed on the Premises License that would address the concerns raised and that the Premise Licence be revoked.

Ms Sandhu requested that a warning be issued on this occasion, give that a number of changes had been implemented and that Mr Grover had demonstrated remorse for his previous actions. The Sub-Committee were reminded that any decision would need to be appropriate and in their view revocation was not suitable in the circumstances.

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Decision

The Sub-Committee took note of the three separate seizures of illegal tobacco products, the sale of the alcohol to a child and the breach of Premises Licence conditions regarding CCTV and considered the persistent nature of the illegal activities at the Licensed Premises to be of great concern.

In its view, there were no additional conditions which could be placed on the Premises Licence which would prevent future illegal activities, nor would a suspension of the Premises Licence be appropriate, given the nature of the infringements.

The Sub-Committee concluded that in order to uphold the Licensing Objectives the Premises Licence shall be revoked and the Licensed Premises issued with a Red Card.

Resolved- That the Premises Licence be revoked.

5. Premises Licence Application - Smarts Supermarket, 6 Upton Lea Parade, Slough.

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

The Applicant, Mr Dilpreet Singh Arora was represented by Mr Panchal of Personal Licence Courses Ltd.

Introduction by Mr Sims, Licensing Manager

The Licensing Manager outlined that an application had been received for Smarts Supermarket, 6 Upton Lea Parade, Slough for the:

*Supply of alcohol for consumption OFF the premises only:-
Monday to Sunday 08:00am -23:00pm*

The application was referred to the Sub-Committee for decision as a representation was received from an 'Other Persons'. The representation detailed concerns relating to;

- *The Prevention of Public Nuisance-* Anti-social behaviour, congregations of groups consuming alcohol in the area, frequent urination in the street, accumulation of litter and that the addition of another off-licence in the area would contribute to the problems raised.
- *The Protection of Children from Harm-* The representation raised concerns in relation to the intended off-licenses proximity to a nearby school.

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The Sub-Committee was advised that there had not been any representations made from any of the Responsible Authorities including the Police and Neighbourhood Enforcement Team or from any other persons.

The Licensing Manager outlined the options available to the Sub-Committee. Members were reminded that the application was for a new Premise Licence and that concerns regarding existing anti social behaviour could not be attributed to the premises.

Questions to the Licensing Manager

None.

Representations by the Applicant

The Applicant, Mr Dilpreet Singh Arora, was represented by Mr Panchal, who advised that the Applicant had three years experience in the running of licenced premises. Mr Panchal advised the Sub-Committee that the Applicant could not be held responsible for existing concerns in the area. It was noted that a number of measures would be implemented to promote the Licensing Objectives, including the display of CCTV posters, Challenge 25 Scheme, maintenance of a Refusals Register. All staff would be appropriately trained.

Questions to the Applicant

It was confirmed that all sales would be made through registered cash and carry's and all transaction receipts would be kept.

In response to whether consideration would be given to no sales of single cans of alcohol, the Applicant confirmed he would consider implementing the Bottle Watch or Marker Scheme and would welcome this as an additional condition on the Premises Licence.

Representations by 'Other Persons'

Mr Virk outlined his objections to the application and advised that he was previously employed at Virk's Stores, which was situated in close proximity to the proposed premises; but that he was no longer in employment there. Mr Virk advised that individuals had raised concerns with him but that he was disappointed that none had attended the meeting to raise these matters. Concerns were raised regarding groups of people congregating in the street and that new premises would compound the existing problems in the area. Mr Virk stated that in his view, the premises would not benefit the local area, especially given its proximity to a number of local schools.

Summing Up

Mr Sims advised that business rivalry was not a consideration that the Sub Licensing-Committee could consider and that the application be considered on its own merits in relation to the Licensing objectives.

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Mr Panchal confirmed his case as previously submitted, reinforcing that his Applicant would robustly promote the Licensing Objectives.

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

Decision

The Sub-Committee re-convened and all parties were asked to re-join the meeting.

Resolved – That a Premises Licence be issued for the Sale by retail of alcohol for consumption OFF the Premises only, Monday to Sunday: 08:00- 23:00, subject to an additional condition requiring that the premises participate in 'Bottle Watch' or 'Marker Scheme' in relation to the sale of alcohol.

Chair

(Note: The Meeting opened at 10.04am and closed at 12.07pm)

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AGENDA ITEM 5

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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