

Date of issue: Thursday 8th February, 2018

MEETING:	LICENSING SUB-COMMITTEE (Councillors Cheema (Chair), Davis and Strutton)
DATE AND TIME:	MONDAY, 19TH FEBRUARY, 2018 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.



NEIL WILCOX
Director of Finance & Resources

AGENDA

PART I

<u>AGENDA</u> <u>ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
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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 matter is discussed.

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WARD

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 Meetings held on 24th August 2017 and 26th September 2017 | 3 - 10 | All |

LICENSING ISSUES

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.

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.

PART II

- | | | | |
|----|---|---------|---|
| 5. | Private Hire Driver Conduct Hearing (Reference 02-17) | 11 - 30 | - |
| 6. | Revocation/Suspension of a Personal Licence | 31 - 54 | - |

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 Thursday, 24th August, 2017.

Present:- Councillors Parmar (Chair), Davis and Strutton.

Officers Present:- Shabana Kauser, Senior Democratic Services Officer, Alison Peters, Legal Representative, Michael Sims, Licensing Manager and Nabihah Hassan-Farooq, Democratic Services Officer.

PART 1

6. Declarations of Interest

None.

7. Guidance on Predetermination/ Predisposition

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

8. Temporary Event Notice- The Lounge, 21 London Road, Slough

The Chair welcomed all parties to the meeting and explained the procedure for the hearing. It was confirmed that all parties had received a copy of the paperwork.

Introduction by the Council's Licensing Manager

The Licensing Manager, Mr Sims stated that a Temporary Event Notice (TEN) application had been submitted for The Lounge, 21 London Road, Langley, and that the event was scheduled to take place on the 27th August 2017. The Officer advised that he would like to circulate maps and aerial views of the area to Sub-Committee Members; no objections were made to the circulation of these items and three documents were tabled. Details of the TEN application which was submitted for the provision of Licensable Activities and times were outlined as follows;

- The Sale of alcohol for consumption On and Off the premises.
- The provision of regulated entertainment.
- The provision of late night refreshment.

It was explained that the nature of the event was to air to the public a boxing sporting event on Sunday 27th August 2017 between 00:00 hours and 06:00 hours. The Sub-Committee were advised that objections has been made to the TEN by Environmental Health and TVP on grounds of Prevention of Public Nuisance, the prevention of crime and disorder and public safety. It was noted that the premises had also been served with a Statutory Noise Abatement Notice in May 2017.

Options available to the Sub-Committee in respect of the submitted TEN, were outlined and included issuing a standard TEN, refuse the application for

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a TEN and issue a Counter Notice or issues a standard TEN imposing existing licensing conditions deemed appropriate.

Questions to Licensing Manager

None.

Representations made by the Designated Premises Supervisor

Mr Taranjit Dhanowalia Designated Premises Supervisor (DPS) was in attendance and addressed the Sub-Committee on behalf of the Premises Licence Holder, Paramjit Dhesi. The circumstances regarding the joint visit by the Licensing Team and Thames Valley Police on 28th April 2017 were outlined. Whilst acknowledging that the fire exit was blocked, Mr Dhanowalia stated that he had felt intimidated by the Police Officers present which had led him to reacting in the manner that he had.

Mr Dhanowalia informed Members that he had received calls from members of the public who had threatened him due to the levels of noise emanating from the premises, which in his opinion were unfounded and untrue. It was noted that the beer garden was open to the public and was part of the hotel adjacent to The Lounge and that there were no current means of closing the garden for public use. Details of how the public could enter and cause anti social behaviour were outlined. It was submitted that the premises were disproportionately blamed for the noise complaints received from within the local vicinity of the area.

Mr Dhanowalia stated that the planned event would be a one off event, which would be ticketed and that patrons would be unable re-enter the venue if they left whilst the event was taking place. The Sub-Committee were advised that security concerns raised by Thames Valley Police had been taken seriously with doormen supervising the entry and exit into the venue. Mr Dhanowalia took the opportunity to apologise to Thames Valley Police for his previous behaviours and actions and asked that the Sub-Committee take into consideration the additional safety measures he would implement to ensure the event was well managed.

Questions to the Designated Premises Supervisor

Members were concerned with the obstructions mentioned within the report that were found at the premises and asked whether the local fire authority had provided any proof that the premises were safe. Mr Dhanowalia advised that a report may have been sent to the hotel, which was a separate part of the site, and that he was advised at the time in front of patrons that the premises would be closed unless the obstructions were moved immediately. Mr Dhanowalia advised that he did move the sofa in front of officers and acted compliantly.

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Members requested clarification regarding the beer garden and whether it was a part of The Lounge or Skyways Hotel, which was located next door to the venue. It was confirmed that although the beer garden was a part of The Lounge's premises, its location meant that patrons from the Skyways Hotel often congregated there. A Member asked whether there was any way of securing the beer garden outside of operating hours from the public. Mr Dhanowalia advised that the beer garden had no lock, and was surrounded by a picket fence.

A Member asked whether Mr Dhanowalia was aware that as the DPS he was required to be at the premises at all times. Mr Dhanowalia confirmed that he was but had on one occasion gone home to collect personal belongings.

Representations from Responsible Authorities- Thames Valley Police

Objections to the TEN had been submitted on a number of grounds. Ms Pearmain, Thames Valley Police Licensing Officer, outlined them as Prevention of Crime & Disorder, Prevention of Public Nuisance and Public Safety. Incidents of anti-social behaviour and noise disturbances from the venue were highlighted. It was brought to Sub-Committee Members attention that CCTV had been requested, following the incident in March 2017, as per condition of the current premises licence, but to date had not been provided. Ms Pearmain stated that it was disappointing that the Premises Licence Holder was not present at the meeting and nor had she attended any previous meetings arranged with Licensing Officers and that in her opinion, this was indicative of the lack of importance attached to promoting the licensing objectives.

Ms Pearmain advised that a number of noise complaints had been received and that should these continue, there would be no option but to apply for a review of the premises licence. The noise and anti social behaviour complaints had been determined to arise from the Lounge as opposed to the hotel. The Sub-Committee was also advised that the DPS had sworn at officers and on occasions his behaviour had been erratic and aggressive

Ms Pearmain advised that should the TEN be granted, this would adversely affect residents and create a public nuisance and undermine the Licensing objectives.

Questions to the Responsible Authority

Members asked whether CCTV footage from March 2017 had been received. The DPS advised that no one had collected the CCTV. However Ms Pearmain advised that the footage had been requested at a meeting in May 2017 but had still not been received.

Members also asked about any noise limitation devices or controls in place at the premises to monitor sound levels. The Applicant advised that although there were no noise limiter mechanisms in place at the venue, these could be installed should the Sub-Committee deem them necessary.

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Representations from Natalie Worley, Environmental Health Officer (EHO)

Natalie Worley, Senior Enforcement Officer advised the Sub-Committee that the Enforcement Team were currently investigating noise complaints relating to noise emanating from The Lounge. It was explained that the complaints referred to loud amplified music and loud talking and shouting from persons attending the venue. The complaints had been made by two separate households in the immediate area. Noise Abatement Notices were served to the premises in May 2017. It was brought to Member's attention that since then, a further complaint regarding loud amplified music had been received.

Questions to the EHO Officer

Members asked questions relating to the nature and origin of noise complaints and whether they had been founded to be malicious. The Sub-Committee were advised that there had been a mixture of complaints referring to noise and drug use at the premises. Leading on from the discussion, questions relating to evidence of drug use on the premises were asked and the Members were advised that no drugs were found on that occasion.

Summing up

The Licensing Manager outlined the options available to the Sub-Committee.

Ms Pearmain stated that the application for a TEN be refused on the likelihood that the licensing objections would not be upheld. Thames Valley Police were concerned that the event would not be safely managed. Ms Pearman submitted that the application be refused and that Members take into account concerns raised by local residents.

Ms Worley, advised that there were serious concerns regarding noise nuisance which would be caused to residents in the local vicinity and there were no current controls in place to limit noise.

In summing up, Mr Dhanowalia acknowledged that although there were a number of issues that had been identified he would ensure that appropriate measures, such as employing door staff, were in place to ensure that the event took place in a safe incident free manner. Mr Dhanowalia stated that he wanted the venue to do well and was willing to work in partnership with the relevant authorities to ensure this was achieved.

All parties were then asked to leave the room to enable the Sub-Committee to deliberate.

Decision

All parties were asked to re-join the meeting.

Having considered all the information available, both written and at the hearing, the Sub Committee decided that granting the Temporary Event

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Notice would undermine the Licensing Objectives relating to the Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety, and that it was therefore appropriate to issue a Counter Notice to promote those objectives.

Chair

(Note: The Meeting opened at 10.18 am and closed at 11.38 am)

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Licensing Sub-Committee – Meeting held on Tuesday, 26th September, 2017.

Present:- Councillors Rasib (Chair), A Sandhu and Strutton.

Officers Present:- Tolani Idowu, Licensing Officer, Shabana Kauser, Senior Democratic Services Officer, Alison Peters, Legal Representative and Nabihah Hassan-Farooq, Democratic Services Officer.

PART 1

9. Declarations of Interest

None.

10. Guidance on Predetermination/ Predisposition

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

11. Minutes of the Meeting held on 15th August 2017

Resolved- That the minutes of the last meeting held on 15th August 2017 be approved as a correct record.

12. 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 1 Schedule 12A to the Local Government Act 1972 (as amended)

13. Private Hire Driver Conduct Hearing- (Reference 01-17)

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

The Licensing Sub-Committee was asked to consider whether Appellant 01-17 was a fit and proper person to continue to hold a Private Hire Driver's licence in Slough.

Members were informed that the Private Hire Driver licence held by Appellant 01-17 had expired on 18th September 2017. It was clarified that although the Sub-Committee didn't have the authority to revoke or suspend the licence, Members were being requested to give consideration on making a recommendation as to when a new application for a Private Hire Driver's licence should be submitted.

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Details of the incident which had led to the convictions were summarised and the relevant policy and legislative framework was brought to Members attention. It was noted that the Council's Policy and Guidance on convictions and cautions for Hackney Carriage Drivers, Private Hire Drivers and Private Hire Operators (September 2017) stated that following a conviction relating to threatening/abusive words or behaviour, no new application would be entertained until a 10 year free period from the date of conviction. Furthermore, the Appellant had failed to notify the Council of his convictions, within 7 days of the convictions being imposed, which was a breach of condition of his Private Hire Driver Licence.

The Driver addressed the Sub-Committee and explained the circumstances regarding the incident in February 2017. The Appellant recognised that he had not reacted in an appropriate manner to the situation and had shown remorse by pleading guilty to the charges at the Magistrate's Court.

It was noted that the Appellant was convicted by Berkshire Magistrates Court in April 2017, for the offences set out above and the Sub-Committee took into account that a custodial sentence was not imposed.

Having considered all the information available, the Sub-Committee recommended that a period of 18 months should lapse, from the date of the conviction, before any new application for a Private Hire Driver Licence was made. The Sub-Committee therefore recommended that no such application be made until after 11th October 2018.

Resolved- The Sub Committee recommended that Private Hire Driver Reference 01-17 not submit an application for a Private Hire Driver Licence until after 11th October 2018.

Chair

(Note: The Meeting opened at 10.01 am and closed at 10.30 am)

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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AGENDA ITEM 6

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

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