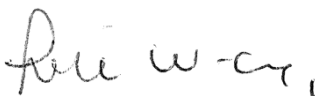


Date of issue: Tuesday 9 April, 2019

<b>MEETING:</b>	<b>LICENSING SUB-COMMITTEE</b> (Councillors B Bains (Chair), M Holledge and Wright)
<b>DATE AND TIME:</b>	WEDNESDAY, 17TH APRIL, 2019 AT 10.00 AM
<b>VENUE:</b>	VENUS SUITE 4 - ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, SL1 3UF
<b>DEMOCRATIC SERVICES OFFICER:</b> (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.



**JOSIE WRAGG**  
Chief Executive

AGENDA

PART I

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	CONSTITUTIONAL MATTERS		
1.	Declarations of Interest	-	-

*All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 4 paragraph 4.6 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.*



<b><u>AGENDA ITEM</u></b>	<b><u>REPORT TITLE</u></b>	<b><u>PAGE</u></b>	<b><u>WARD</u></b>
2.	Guidance on Predetermination/ Predisposition - To Note	1 - 2	-
3.	Minutes of the Meetings held on 28th January 2019 and 4 March 2019.	3 - 12	-

### **GENERAL 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 Driver Conduct Hearing (Reference 05-18) | 13 - 46 | All |
|----|---|---------|-----|

#### **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 Monday, 28th January, 2019.**

**Present:-** Councillors S Parmar (Chair), M Holledge and Strutton.

**Officers Present:-** Shabana Kauser (Democratic Services), Andrew Lucas (Legal Services) and Michael Sims (Licensing).

**PART 1**

**36. Declarations of Interest**

None received.

**37. Guidance on Predetermination/ Predisposition - To Note**

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

**38. Minutes of the Last Meeting held on 10th December 2018**

**Resolved** – That the minutes of the meeting held on 10<sup>th</sup> December 2018 be approved as a correct record.

**39. Review of Premises Licence - Chalvey Off Licence, Unit 4, Alexandra Plaza, Chalvey Road West, Slough, SL1 2NJ**

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

Introduction by the Licensing Manager

Mr Sims introduced the report, advising that Thames Valley Police had submitted a review of the premises licence and that the grounds for the review related to the licensing objectives regarding the prevention of crime and disorder and protection of children of harm following a failed test purchase. Mr Sims confirmed that Mr Padda was both the current holder of the Premises Licence and the Designated Premises Supervisor (DPS) in respect of the licensed premises. The DPS was responsible for the day to day management of the premises. It was noted that the relevant licensable activity was for the supply of alcohol for consumption off the premises only.

Thames Valley Police were recommending a number of conditions be imposed on the Premises Licence to address concerns regarding management of the premises; namely removal of Mr Padda as the DPS, only multi-packs as produced by the manufacturer, of alcohol to be sold and that a 'Yellow Card' be issued to the premises as a warning that if a further review is required and matters have not improved the premises licence may be revoked.

## **Licensing Sub-Committee - 28.01.19**

The Sub-Committee were informed that discussions held prior to the meeting, between the Premises Licence Holder and Thames Valley Police had indicated that agreement had been reached between both parties for Mr Padda to be removed as the DPS and a 'Yellow Card' be issued to the premises. However, Mr Sims explained that Mr Padda and the Police had been unable to agree a condition over the sale of single cans.

### Representations by Thames Valley Police

Ms Debie Pearmain, the Police Licensing Officer, referred the Sub-Committee to pages 27 to 44 of the document pack, being the Police's application for a review and the background to this matter.

Ms Pearmain explained that an extendable baton had been found at the Licensed Premises in 2016 and that this had been of concern.

Sub-Committee Members were informed by Ms Pearmain that during a licensing check on 1<sup>st</sup> October 2018 Mr Padda had confirmed that he gave his customers plastic cups. A Joint Test Purchase operation was conducted on 18<sup>th</sup> October 2018, where alcohol was sold to two 16 year old volunteers. The sale had been conducted by Mr Padda himself and he did not ask to see any I.D. or ask the purchaser's age. Ms Pearmain said that no second member of staff had been on duty when she left the premises at 18.10 on 18<sup>th</sup> October, in breach of condition 6 of the premises licence which stipulated that two members of staff to be on the premises each evening from 1800 until close.

Ms Pearmain explained the Police's concerns over the sale of single cans of alcohol by the premises and that this was causing street drinking and anti-social behaviour in Chalvey. Also in attendance with Ms Pearmain was PC Fry, Police Community Support Officer who explained to the Sub-Committee that the Chalvey Ward is subject to a Public Spaces Protection Order. He detailed the considerable amount of Police resources spent dealing with street drinking and related anti-social behaviour in Chalvey which, was having a detrimental impact on the Police's ability to respond to incidents in other parts of Slough. It was confirmed that drinking took place around the premises and that the Friday before the Sub-Committee met the Police had observed people congregating outside the Premises.

Ms Pearmain explained the discussions that had taken place with Mr Padda on 14 November 2018. She highlighted Mr Padda's explanation that he had not made the sale intentionally or on purpose. Ms Pearmain said that her concern was Mr Padda's failure to carry out due diligence.

In addition to the agreed conditions, Ms Pearmain sought a suspension of the premises licence while a new DPS was appointed and a condition to be added to the licence that cans of alcohol can only be sold in multipacks as produced by the manufacturer.

## **Licensing Sub-Committee - 28.01.19**

### Questions to Thames Valley Police

In response to questions from the Sub-Committee, Ms Pearmain confirmed that there were no further issues with the CCTV and that a Refusals Register was being maintained at the premises, although it was noted there were no entries made between 13<sup>th</sup> August 2018 and 17<sup>th</sup> October 2018.

### Representations by the Premises Licence Holder

Mr Panchal explained that his client had always co-operated with the Council and responsible authorities since he had obtained the licence in 2014. He confirmed that the refusal register was used and submitted that there were some periods when there were simply no refusals to record.

Mr Panchal emphasised Mr Padda's co-operation in agreeing to change the DPS and display the 'yellow card' warning. Mr Panchal submitted that Mr Padda was properly trained and aware of the law but that he was willing to step down and appoint a new DPS, demonstrating his co-operation.

Mr Panchal resisted a suspension of the licence, stating that his view was that the DPS could be changed in 21 days, that a new DPS could be appointed immediately and that there was no need to suspend the licence for longer. Mr Sims confirmed that while a change of DPS could be done immediately, the Police then had 14 days in which to make any objections in respect of the new DPS.

Mr Panchal confirmed that although Mr Padda was agreeable to not selling single cans, he did not want to only sell in multipacks prepared by the manufacturer. It was proposed that a minimum of two cans per transaction would be sold. The Sub-Committee were shown a sign that had been prepared for display in the premises informing customers of this. It was highlighted that there were high levels of deprivation in the Chalvey area and many customers would not be wanting to purchase multipacks.

### Questions to the Premises Licence Holder

The Sub-Committee questioned Mr Padda about providing plastic cups to customers. Mr Padda said he didn't do it so people could drink outside; he said the customers took them home. The Sub-Committee were of the view that customers were likely to have glasses at home, but Mr Padda said the Sub-Committee would be surprised. It was noted that, following a request by the Police, plastic cups were no longer provided. Mr Panchal asked the Sub-Committee to note Mr Padda's co-operation.

Mr Padda confirmed that the cheapest can he sold was £1.00 and that he sold nothing cheaper. He said not all cases of beer come in multipacks and that cases of single cans could be purchased from the cash and carry.

## Licensing Sub-Committee - 28.01.19

### Summing Up

All parties were provided with an opportunity to provide a brief summary. Mr Panchal reiterated that there had been full co-operation with the relevant parties and that the DPS would be replaced immediately.

### Decision

Having carefully considered all the written information and verbal representations made at the meeting, the Sub-Committee

### **Resolved -**

1. To remove Arandeep Padda as the Designated Premises Supervisor;
2. To add a new condition to the licence being that: No sales of single cans of alcohol. A minimum purchase of two cans of alcohol per transaction;
3. To add a new condition to the licence being that: No plastic cups, paper cups or other drinking vessels to be supplied by the premises to its customers;
4. The premises licence be suspended for a period of 8 weeks.

The Sub-Committee concluded that the above conditions were proportionate and necessary to promote the licensing objectives upon which the review was brought.

In addition to the above, the Sub-Committee decided **to issue a Yellow Card to the premises as directed and recommended by the Department of Culture, Media and Sport. The Yellow Card must be displayed at the premises for a period of 12 months.**

The Sub-Committee welcomed Mr Padda's willingness to agree to the yellow card and to step down as the DPS. However, they were very concerned about the impact that Mr Padda and the premises appeared to be having on street drinking and alcohol related antisocial behaviour. Furthermore, The Sub-Committee did not accept Mr Padda's explanation that his customers took the plastic cups home and were concerned that Mr Padda did not appear to be considering the consequence his actions could have on the wider community. The Sub-Committee decided that it was necessary to add a condition to the licence formalising Mr Padda's agreement not to provide plastic cups.

In respect of single can sales, the Sub-Committee determined that allowing only sales of manufacturer's multipacks would be disproportionate but that single can sales should be restricted in order to try to reduce the effect the premises may be having on street drinking. The Sub-Committee therefore decided to accept the condition proposed by Mr Panchal on behalf of Mr Padda, that there be no single can sales, and impose it on the licence.



## **Licensing Sub-Committee - 28.01.19**

While the Sub-Committee heard that a new DPS could be appointed within 21 days, they were concerned that if the Police objected to the proposed new DPS and they were not appointed, or a suitable DPS could not be found, then the process may take longer than 21 days. The Sub-Committee therefore resolved to suspend the licence for a period of 8 weeks.

### **40. Application for Street Trading Consent - Anjum's, Service Road outside 220 Farnham Road, Slough**

The Licensing Manager submitted for Members consideration an email sent by the Applicant's son, dated 24<sup>th</sup> January 2019 which stated that the Applicant was unable to attend the hearing due to language difficulties.

The Sub-Committee decided that in order to ensure the Applicant the opportunity of a fair hearing, with representation if required, the hearing of the Street Trading Consent Application would be adjourned. Democratic Services would make the necessary arrangements, including providing a translator and a hearing would be scheduled in due course.

**Resolved** – That consideration of the application for a Street Trading consent be adjourned.

### **41. 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).

### **42. Private Hire Driver Application (Appellant Reference 04-18)**

The Following is a Part 1 summary of the case:

The Licensing Sub-Committee was asked to consider whether the Appellant (Reference 04-18) was a fit and proper person to be granted a Private Hire driver licence in Slough.

The Licensing Manager summarised the background to the case and discussed the relevant Policy and Legislative considerations. He advised Members that the Sub-Committee could only allow an Applicant to hold a Licence if it was satisfied that the applicant was a 'fit and proper' person to do so.

It was outlined that in April 2018 an application for a Private Hire Driver's licence had been made, upon which no convictions or cautions were declared. However, following the submission of the Disclosure and Barring Service (DBS) Certificate to the Licensing Office, in November 2018, it was noted that

## **Licensing Sub-Committee - 28.01.19**

the Appellant had received a caution on 5<sup>th</sup> July 2015 following an incident that had taken place on 3<sup>rd</sup> May 2015.

Options available to the Sub-Committee were outlined. It was recommended that the application be refused as failure to disclose the caution highlighted that the Appellant was not a 'fit and proper person' to be granted a Private Hire Driver Licence.

The Appellant addressed the Sub-Committee, and presented evidence in mitigation. Circumstances relating to the incident in July 2015 were outlined and an explanation provided in relation to the Appellant's current and former place of residence. The Appellant also stated that he was not aware that a caution had to be declared on the application form. It was also noted that he was not currently working and needed a licence to generate income.

The Sub-Committee carefully considered all the evidence at its disposal.

**Resolved** – That a Private Hire Driver Licence not be issued to Appellant 04-18.

Chair

(Note: The Meeting opened at 10.13 am and closed at 1.30 pm)

## **Licensing Sub-Committee – Meeting held on Monday, 4th March, 2019.**

**Present:-** Councillors Davis (Chair), S Parmar and Wright.

**Officers Present:-** Tolani Idowu (Licensing), Shabana Kauser (Democratic Services) and Andrew Lucas (Legal Services)

### **PART 1**

#### **1. Declarations of Interest**

None received.

#### **2. Guidance on Predetermination/ Predisposition - To Note**

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

#### **3. Application for Street Trading Consent - Anjum's, Service Road outside 220 Farnham Road, Slough**

The Chair welcomed all parties to the meeting and asked those present to introduce themselves and explained the procedure for the hearing. The Applicant was in attendance with a translator.

##### Introduction by the Licensing Officer

The Licensing Officer introduced the report stating that an application for a Street Trading Consent in the location of the Service Road between 220, Farnham Road and 216-218, Farnham Road, Slough, had been received. The premises would trade as "Anjum's".

The Sub Committee was reminded that the Council had designated all streets in the Borough as consent streets but Street Trading was only allowed with the consent of the Council. The Council could limit the number of Consents issued and attach appropriate conditions.

The Sub-Committee was advised an application had been submitted for a Street Trading Consent for the sale of grilled chicken and chips and that the hours of operation proposed were Monday to Sunday from 19:00 hrs, to 23:00 hrs.

It was highlighted that a Street Trading Consent for the site had previously been granted to an individual who had been trading from 2006 until October 2015, but ceased trading due to ill health. A new consent was granted to a different operator in 2016 with specific conditions.

## Licensing Sub-Committee - 04.03.19

The Officer discussed the consultation which had taken place with relevant authorities and owners/ occupiers of properties within 100 metres of the proposed site. Objections were received from owners/ occupiers which included the following grounds:

- The granting of the application would result in noise and anti-social activities.
- There would be an increase in litter in the form of food waste and drinks cans and bottles.

The Sub Committee was reminded that conditions could be attached to the Consent where deemed necessary and these could be varied when required. The Consent was valid for a year and could be reviewed annually. Further, the Council could revoke a Consent at any time.

### Questions to Licensing Officer

In response to a Member question, it was confirmed that only soft drinks, not alcohol, would be sold.

### Representations by the Applicant

Mr Anjum addressed the Sub-Committee, stating that his previous employment meant that he had relevant food handling and hygiene experience. It was noted that you had left your employment to pursue this as a business venture and had spent £10k on purchasing a van.

In summary the Applicant stated that this business was important as he wanted to do something for himself and that he should be given an opportunity to prove himself.

The Licensing Officer and the Applicant summed up. All parties were asked to leave the meeting whilst the Sub-Committee deliberated.

### Decision

The Sub-Committee carefully considered all of the evidence at its disposal, and it was:

**Resolved -** That a Street Trading Consent for Anjum's, the Service Road between 220, Farnham Road, and 216-218, Farnham Road, Slough, be granted for one year, subject to the following conditions:-

1. A limit on the hours of trade which can be undertaken (hours of operation Monday to Sunday from 19:00 hrs to 23:00 hours)
2. A bin must be placed on the site and a litter pick of a 25 metre radius of the site and a litter pick undertaken on a daily basis.
3. Removal of all rubbish daily.
4. A prohibition on leaving vehicles at the site overnight.

## **Licensing Sub-Committee - 04.03.19**

While the Sub-Committee considered the objections to be valid concerns for local residents, they were satisfied that placing additional conditions on the consent should prevent nuisance from being caused to the residents.

Chair

(Note: The Meeting opened at 10.06 am and closed at 10.33 am)

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