

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 2nd July 2024

Present: Councillor I Rizvi (in the Chair)
Councillors G Marsden and G McGill

M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
C. Riley (Legal Services)
C. Smith (Head of Public Protection)

Also in attendance: Mr A Gregson (Applicant's Legal Representative)
Mr R Bhatia (Applicant)

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No members of the press or public were in virtual attendance.

1 APOLOGIES FOR ABSENCE

No apologies for absence were submitted.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING(S)

The minutes of the last Licensing Hearing Sub Committee meetings held at 10.00am on the 11th April, 1.00pm on the 17th April 2024 and 1.30pm on the 19th April 2024 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 10.00am on the 11th April, 1.00pm on the 17th April 2024 and 1.30pm on the 19th April 2024 be approved as a correct record.

4 APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 IN RESPECT OF WINDSOR LOCAL, 89 WINDSOR ROAD, PRESTWICH, M25 0DE

The Licensing Authority received an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Windsor Local, 89 Windsor Road, Prestwich, M25 0DE.

The applicant for the licence is Sahiba Trading Limited, 56 Windsor Road, Prestwich, M25 0DE and since publication of the report within the agenda pack Mr R Bhatia will be the Designated Premises Supervisor (DPS), in respect of the above premises.

The Applicant had complied with all the necessary procedural requirements laid down by the Act.

The Licensing Unit Manager presented the report and as part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation

to the grant of a licence. Where representations are made and not withdrawn Members are required to determine them

Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-

- the prevention of crime and disorder
- public safety
- prevention of public nuisance and
- protection of children from harm

The application is for the grant of a Premises Licence under Part 3 of the Licensing Act 2003 which was attached at Appendix 1 in the agenda packs. The Licensing Unit Manager commented that the incorrect premises had been listed on the title page of appendix 1 but the report was correct.

Opening Times:

Monday to Sunday – 07:00 till 22:00

Supply of Alcohol (off the premises):

Monday to Sunday– 07:00 till 22:00

The conditions contained in the operating schedule submitted by the applicant were contained at Appendix 2 in the agenda packs.

Three relevant representations from interested parties had been made against this application and none of the representors would be in attendance.

The representations were attached at Appendix 3 in the agenda packs and a summary is detailed below:-

- Located on residential street
- Increase in public nuisance & anti-social behaviour
- Litter
- Noise outside
- Light pollution
- Crime and disorder
- Public safety and disturbance

After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as

licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

In making its decision with regard to this application hearing, the steps the Sub-Committee can take are:

- To grant the application in the terms requested
- To grant the application subject to conditions
- To amend or modify existing or proposed conditions
- To refuse the application

All licensing determinations should be considered on the individual merits of the application.

The Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.

It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

The Sub-Committee was asked to determine what steps, as set out above, are appropriate for the promotion of the licensing objectives.

Mr A Gregson, from Hospitality Training Solutions who was representing the applicant, addressed the sub committee and told Members the closing 10.00pm closing time was considered more conservative than 11.00pm for the residential area the store was located. Conditions were listed to promote the licensing objectives which would be met and no representations had been made from other authorities or organisations such as the police. In relation to light pollution and footfall, the store was already open and operating and regardless of a licence for alcohol sales.

The Licensing Unit Manager reminded Members that with no representors present, there was still a process for a review if the licensing objectives were not promoted. GMP had not made any comments about ASB in the area and the issues of need and car parking were not a relevant consideration.

The Sub-Committee then duly retired to consider the application.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to the relevant provisions of the national guidance and the Council's licensing policy statement.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives together with relevant representations presented by all parties.

Delegated decision

All of the evidence was considered with care, and it was established that having understood the application and equally noting and understanding the representations, the Sub-Committee found there were no causes for concern so far as the promotion of the licensing objectives were concerned.

It was therefore agreed unanimously that the Sub- Committee **grant the application for a Premises Licence in the terms requested**, subject to the following conditions:-

Operating Schedule

The Prevention of Crime & Disorder

- *The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The location of cameras will be recorded on the plan attached to the licence. The recording medium (e.g. discs/tapes/hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police/Authorised Officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.*
- *A written record shall be kept every time images are recorded by CCTV and shall include details of the recording medium used, the time and date recording commenced and finished. This record shall identify the person responsible for the recording and shall be signed by him/her. Where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.*
- *Staff training shall take place on the Licensing Act and Licensing objectives upon commencement of employment and every six months thereafter, a written record of this training is to be maintained and made available to the police and any authorised officer of the Council for inspection on request.*
- *A written delegation of authority record will be kept at the premises whereby non personal licence holders are authorised to make sales on behalf of a personal licence holder.*

- *The Designated Premises supervisor / personal licence holder will be available /contactable at all times that alcohol is on sale.*
- *An incident book/register shall be maintained to record:*
 - All incidents of crime and disorder occurring at the premises.*
 - Details of occasions when the police are called to the premises.*
 - This book/register shall be made available for inspection by a police officer or other authorised officer on request.*
- *No alcoholic drink shall be removed from the premises in an unsealed container.*
- *Alcohol may only be sold in sealed containers.*
- *Alcohol may not be sold to any person who appears to be intoxicated.*

Public Safety

- *All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence.*
- *Written records of this training shall be retained and made available to police and authorised officers of the Licensing Authority on request.*

The Prevention of Public Nuisance

- *The outside of the premises will be monitored regularly for litter.*
- *Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises.*
- *No refuse shall be disposed of or collected from the premises between the hours of 2300 - 0700 where such disposal or collection is likely to cause disturbance to local residents.*
- *Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.*

The Protection of Children from Harm

- *The premises will operate a "Challenge 25" proof of age policy, and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold/supplied alcohol. Only a passport or photo-card driving licence or a proof of age card bearing the official 'PASS' accreditation hologram should be accepted as proof of age.*

- *The premises is to maintain a refusals / incident book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18 and record the circumstances of any incident. The book must be made available to the police / authorised officers of the Licensing Authority on request.*

COUNCILLOR IRIZVI
Chair

(Note: The meeting started at 1.00pm and ended at 1.25pm)