

LICENSING PANEL
Regulatory Committee
Agenda

Date Tuesday 13 December 2022

Time 9.30 am

Venue Lees Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

- Notes
1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Constitutional Services in advance of the meeting.
 2. CONTACT OFFICER for this Agenda is Constitutional Services Tel. 0161 770 5151 or email Constitutional.Services@oldham.gov.uk
 3. PUBLIC QUESTIONS – Any member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the Contact officer by 12 Noon on Thursday, 8 December 2022.
 4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

Please also note the Public attendance Protocol on the Council's Website

https://www.oldham.gov.uk/homepage/1449/attending_council_meetings

MEMBERSHIP OF THE LICENSING PANEL IS AS FOLLOWS:
Councillors Cosgrove, C. Gloster and Nasheen

Item No

1 Election of Chair

The Panel is asked to elect a Chair for the duration of the meeting.

2 Urgent Business

Urgent business, if any, introduced by the Chair

3 Apologies For Absence

4 Declarations of Interest

To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.

5 Public Question Time

To receive Questions from the Public, in accordance with the Council's Constitution.

6 Order of Proceedings (Pages 1 - 4)

7 Application to Vary a Designated Premises Supervisor on a Premises Licence (Pages 5 - 22)

The purpose of this report is to inform Members of an application to vary the designated premises supervisor (DPS) in respect of Deans Local, Failsworth which, due to representations being received, has been referred to this Panel for determination.

OLDHAM BOROUGH COUNCIL

LICENSING PANEL - ORDER OF PROCEEDINGS

The procedure outlined below, which was enclosed with the notice of hearing sent to each party, and a copy of which is before you today, will be followed.

Documentary evidence may be relied upon and considered by the Panel if it has been served on the Licensing Authority prior to the hearing, or if all parties consent it can be produced on the day of the hearing.

Any person wishing to call a witness to speak at the hearing must have applied in writing for permission from the Licensing Authority at least 2 working days before the hearing and must also have provided the name of the witness and a brief description of the points on which that person may be able to assist the authority in relation to their application, representations or notice. Any application to call a witness where the party has not given 2 working days' notice will be considered by the Panel at the beginning of the hearing and permission will not be unreasonably withheld.

Each party will have the same amount of time in which to address the Panel, each party will have up to 60 minutes to address the authority and give any further information (which must be relevant to that party's or another party's application or representation). Where any party considers this time to be insufficient then, a request in writing may be made to the Constitutional Services Officer for an extension of time at least two working days before the hearing; however this will not automatically be granted, and will be at the discretion of the Panel.

Any person behaving in a disruptive manner will be asked to leave the hearing, however, if this occurs that person will be entitled to submit in writing any information they would have been entitled to give orally.

The Authority will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal.

Members are advised that they are making decisions in a quasi-judicial manner. As such, they have a duty to view all evidence presented before them impartially. Members must disregard any information given by a party which is not relevant to the promotion of the licensing objectives. The Panel is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.

ORDER OF PROCEEDINGS

INTRODUCTION

The Constitutional Services Officer (“the Clerk”) will welcome those present and outline the procedure to be followed (as set out below) and record those present. The Clerk will remind everyone that each party will have up to 60 minutes to address the Panel and give any further information.

APPLICATION

The Licensing Officer will outline the nature of the application.

The applicant and/or their representative to address the Panel, present additional information in support of the application (where consent to do so has been granted) and call any witnesses (subject to having given the required prior notice or having received permission at the beginning of the hearing). The Applicant and any witnesses may be questioned by Members of the Panel.

Any party, if given permission by the panel, may question the applicant and his witnesses, but this shall not take the form of cross examination.

REPRESENTATIONS

The Party making the representation and/or their representative to address the members of the Panel, providing any additional information in support of their representation (where consent to do so has been granted) and call any witnesses (subject to having given the required prior notice or having received permission at the beginning of the hearing). The party and any witnesses may be questioned by Members of the Panel.

In the event that a number of members of the public are present at the meeting who intend to make a representation in relation to the application as interested parties then the Chair has discretion to ask that they appoint a nominated spokesperson to present their representations.

Any party, if given permission by the panel, may question the party making representations and his witnesses, but this shall not take the form of cross examination.

These representations will be taken in the following order: -

- Police Representation (unless they are the applicant)
- Licensing Authority
- Environmental Health Representation
- Other Responsible Authorities Representation
- Public Representation (Interested Parties)

CLOSING STATEMENTS

The party making the representation may summarise their representation and make a closing statement.

The holder of the premises licence may summarise their representation and make a closing statement.

The Applicant may summarise the application and make a closing statement.

SUMMARY The Chair to summarise who has made representations.

DETERMINATION

The Panel Members will leave the hearing to consider their decision in private. The panels may request the services of a legal representative and Constitutional Services Officer.

The Chair of the Panel will announce the determination of the application and the reasons for that determination, and it will then be confirmed in writing within 5 working days of the hearing.

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Licensing Panel

Licensing Act 2003

Application to Vary a Designated Premises Supervisor on a Premises Licence

Deans Local, 1 Manwaring Street, Failsworth, M35 0GF

Report of Executive Member for: Neighbourhoods

Officer contact: Nicola Lord

13th December 2022

Reason for Decision

The purpose of this report is to inform Members of an application to vary the designated premises supervisor (DPS) in respect of Deans Local, Failsworth which, due to representations being received, has been referred to this Panel for determination.

Recommendations

Members are recommended to consider the application, taking into account the representations received.

**Licensing Act 2003 – Application to Vary a Designated Premises Supervisor on a Premises Licence
Deans Local, 1 Manwaring Street, Failsworth, M35 0GF**

1 Background

- 1.1 The purpose of this report is to inform Members of an application to vary the designated premises supervisor (DPS) in respect of Deans Local, Failsworth which, due to representations being received, has been referred to this Panel for determination.

2 Recommendations

- 2.1 Members are recommended to consider the application, taking into account the representation received.

3 The Application

- 3.1 On the 11th November 2022 Shiry Ram applied to vary the designated premises supervisor (DPS) in respect of the premises named above. The last day for representations in respect of the application was the 25th November 2022.

- 3.2 Details of the proposed DPS are as follows:

Shiry Ram – Personal Licence no. 194165 issued by Manchester City Council.

- 3.3 A copy of the application & DPS consent form is attached at **Appendix 1**.

- 3.4 A location map of the premises is attached at **Appendix 2**.

4 Representations

- 4.1 Following submission of the application a representation has been received by Greater Manchester Police due to concerns over the Crime & Disorder objective.

- 4.2 The applicant was supplied with a copy of this representation and indicated they were in the process of finding a suitable alternative, however, no further applications have been received pending the date of this hearing and therefore the application must be considered by Members.

5 Licensing Policy

- 5.1 Members considering the application should take note of the Authority's Licensing Policy Statement when determining an application. Attention should be drawn to Section 29 of the Policy relating to Processing of Applications & Representations.

- 5.2 Paragraph 29.7 reads:

Representations can only be considered if they relate to a problem that could compromise one or more of the licensing objectives. Officers will decide if this is the case and they are charged with deciding whether or not objections are irrelevant, frivolous or vexatious. Any representation deemed so will not be considered.

5.3 A full copy of the Councils Licensing Policy statement will be available at the hearing.

6 Secretary of State Guidance

6.1 Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003 (April 2018).

6.2 In relation to 'Police objections to new designated premises supervisors', the following paragraphs provide:-

4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.

4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

A full copy of the guidance will be available at the hearing.

7 Options/Alternatives

7.1 When determining the application Members, having had regard to the representation, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps are -

- a) Grant the application as applied for
- b) To reject the application;

7.2 Any steps appropriate to promote the licensing objectives should be specified. If no steps are appropriate the application should be granted.

7.3 Findings on any issues of fact should be on the balance of probability.

7.4 In arriving at a decision Members must have regard to the relevant provisions of national guidance and the licensing policy statement and reasons must be given for any departure.

7.5 The decision should be based on the individual merits of the application.

8 Consultation

- 8.1 Consultation in accordance with the Act has taken place with Greater Manchester Police.

9 Legal Services Comments

- 9.1 Under section 37 of the Licensing Act 2003, where the chief officer of police is satisfied that the exceptional circumstances of the case are such that granting the application to change the designated premises supervisor would undermine the crime prevention objective, he must give the Council a notice stating the reasons why he is so satisfied. Under section 39 of the Act, having regard to the notice the Council must reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.
- 9.2 Both the applicant and the police have a right of appeal to the magistrates' court in respect of the Council's decision on the applications.(A Evans)

10 Environmental and Health & Safety Implications

- 10.1 None

11 Equality, community cohesion and crime implications

- 11.1 The Council's 'Statement of Licensing Policy' takes into account these matters. All decision made by the Licensing Panel, must have regard to this policy and National Guidance.

12 Equality Impact Assessment Completed?

- 12.1 No

13 Background Papers

- 13.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

File Ref: Records held in Directorate
Officer Name: Nicola Lord

14 Appendices

Appendix 1 – Application & Consent Form

Appendix 2 – Location Map

Appendix 3 – Representation from GMP

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we SHIRY RAM
(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

PL 0594

Part 1 – Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description 1 MANWARING STREET	
Post town FAIRSWORTH MANCHESTER	Post code (if known) M35 OGF
Telephone number (if any) 07830 979922	
Description of premises (please read guidance note 1) OFF LICENCE	

Part 2- Proposed supervisor details

Full name of proposed designated premises supervisor

SHIRY RAM

Nationality

BRITISH

Place of birth

JALALABAD,
AFGHANISTAN.

Date of birth

[REDACTED]

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

194165 - MANCHESTER CITY COUNCIL

Full name of existing designated premises supervisor (if any)

ZUBAIR SHAHZAD.

Please tick yes

I would like this application to have immediate effect under

section 38 of the Licensing Act 2003 (please read guidance note 2)

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police (please read guidance note 3) N/A.
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will notify the existing premises supervisor (if any) of this application (please read guidance note 4)
- I understand that if I do not comply with the above requirements my application will be rejected

It is an offence, under Section 158 of the Licensing Act 2003, to knowingly or recklessly make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

It is an offence under section 24B of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status.

Those who employ an adult without a valid leave to enter or remain in the UK or an adult who is subject to conditions which would prevent that person from taking up employment will be liable to a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 and, pursuant to section 21 of the same act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified by virtue of their immigration status.

Part 3 – Signatures (please read guidance note 5)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 6). If signing on behalf of the applicant please state in what capacity.

Signature

Sh...

Date

10 NOVEMBER 2022.

Capacity

APPLICANT.

For joint applicants signature of 2nd applicant, 2nd applicant's solicitor or other authorised agent (please read guidance note 7). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 8)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Guidance notes

- 1. Describe the premises. For example the type of premises it is.**
- 2. An application to vary a premises licence so as to name a different premises supervisor may be given immediate effect (that is, from the time**



**Consent of individual to being specified as premises
supervisor**

Name of Prospective Premises Supervisor	SHIRY RAM
Home Address	[REDACTED]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application to Vary DPS by,

Name of Premises Licence Holder <i>(applicant)</i>	SHIRY RAM
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relating to premises licence,

Premises Licence Number <i>(for existing premises)</i>	PL 0594
Name of Premises <i>(to which application relates)</i>	DEAN'S LOCAL
Address of Premises <i>(to which application relates)</i>	1 MANWARING STREET, FAILSWORTH, MANCHESTER, M35 0GF

and any premises licence to be granted or varied in respect of this application made by

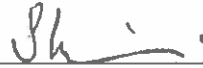
Name of Premises Licence Holder <i>(applicant)</i>	SHIRY RAM
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concerning the supply of alcohol at

Name of Premises <i>(to which application relates)</i>	DEAN'S LOCAL
Address of Premises <i>(to which application relates)</i>	1 MANWARING STREET, FAILSWORTH, MANCHESTER, M35 0GF

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below

Personal Licence Number <i>(if already held)</i>	194165
Issuing Authority Name & Address <i>(the authority where your licence was granted)</i>	MANCHESTER CITY COUNCIL

Signed	
Print Name	SHIRY RAM.
Date	10 NOVEMBER 2022.

The Licensing Act 2003

Responsible Authority Representation Form



The Section 182 Guidance is a valuable source of information that responsible authorities may wish to consult when considering making a representation and can be found online on this link: <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Section 1 - Application Details	
Applicants Name	Shiry Ram
Premises Name	Deans Local
Premises Address	1 Manwaring Street, Failsworth, M35 0GF
Type of Application	DPS Variation

Section 2 – Responsible Authority Details																			
Please tick the appropriate box	<table border="1"> <tr><td><input checked="" type="checkbox"/></td><td>Greater Manchester Police</td></tr> <tr><td><input type="checkbox"/></td><td>Greater Manchester Fire & Rescue</td></tr> <tr><td><input type="checkbox"/></td><td>Environmental Health</td></tr> <tr><td><input type="checkbox"/></td><td>Trading Standards</td></tr> <tr><td><input type="checkbox"/></td><td>Public Health</td></tr> <tr><td><input type="checkbox"/></td><td>Safeguarding</td></tr> <tr><td><input type="checkbox"/></td><td>Planning Service</td></tr> <tr><td><input type="checkbox"/></td><td>Home Office Immigration</td></tr> <tr><td><input type="checkbox"/></td><td>Licensing Service</td></tr> </table>	<input checked="" type="checkbox"/>	Greater Manchester Police	<input type="checkbox"/>	Greater Manchester Fire & Rescue	<input type="checkbox"/>	Environmental Health	<input type="checkbox"/>	Trading Standards	<input type="checkbox"/>	Public Health	<input type="checkbox"/>	Safeguarding	<input type="checkbox"/>	Planning Service	<input type="checkbox"/>	Home Office Immigration	<input type="checkbox"/>	Licensing Service
<input checked="" type="checkbox"/>	Greater Manchester Police																		
<input type="checkbox"/>	Greater Manchester Fire & Rescue																		
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<input type="checkbox"/>	Safeguarding																		
<input type="checkbox"/>	Planning Service																		
<input type="checkbox"/>	Home Office Immigration																		
<input type="checkbox"/>	Licensing Service																		
Full Name	Pc 1095 Addison																		
Telephone	0161 856 9069																		
Email Address <i>(we will use this to correspond with you unless you notify us otherwise)</i>	01095@gmp.police.uk																		
Full Address <i>(Including postcode)</i>	Sir Robert Peacock House Vulcan Street Oldham OL1 4LA																		

Section 3 – Representation Details

- I object to the application being granted at all
 I object to the application being granted in its current form*

*if you choose this option remember to tell us in Section 4 what changes you would like to see

Licensing Objectives

The Prevention of Crime & Disorder

Please state the reasons you believe granting the application will undermine this objective

The applicant has already been convicted of selling illicit tobacco.

28,800 sticks of non-duty paid Gold Classic cigarettes seized by HMRC on 21.11.17 from a garage leased by Edgeley Discount Store Ltd, 41 Castle Street, Edgeley SK3 9AT (director Mr Zamil Ahmed MUNSHI, [redacted personal information]) and sublet to Mr Shiry RAM, [redacted personal information]

Police National Computer shows that the applicant pleaded guilty and was ordered to pay £1100 penalty, £85 costs and £110 victim surcharge on 20/6/2018.

GMP object to the applicant being a DPS in a licensed premises in Oldham.

Public Safety

Please state the reasons you believe granting the application will undermine this objective

The Prevention of Public Nuisance

Please state the reasons you believe granting the application will undermine this objective

Protection of Children from Harm

Please state the reasons you believe granting the application will undermine this objective

Section 4 – Suggestions

(please provide any suggested conditions that could be added to the licence if granted which would remedy the cause of your representation, or other suggestions you would like the licensing panel to consider)

Section 6 – Signature
Sign: J. ADDISON Date: 18/11/2022

Please return the completed representation form, and any additional evidence, to the Licensing Service, Sir Robert Peacock House, Vulcan Street, Oldham, OL1 4LA or email to representations@oldham.gov.uk

TIME LIMITS

All representations must be returned within the statutory period, generally 28 days from the date the notice was displayed on the premises or the date specified in the public notice in the newspaper.

If you are unsure of the time limit to lodge a representation for a particular application, please check with the Licensing Service by emailing representations@oldham.gov.uk

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