

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