

WAVERLEY BOROUGH COUNCIL

LICENSING SUB-COMMITTEE C

12 SEPTEMBER 2022

Title:

LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES LICENCE- PETER HIRONS FOR THE LEATHERN BOTTLE, 77 MEADOW, FARNCOMBE, GODALMING, SURREY GU7 3JG

[Wards Affected: All Godalming Wards]

Portfolio Holder: Cllr MacLeod Portfolio Holder for Enforcement, Operations and Brightwells

Head of Service: Richard Homewood Head of Environmental and Regulatory Services

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 The purpose of the report is to enable the Sub-Committee to consider an application which has been received under the Licensing Act 2003 from the premises licence holder - Mr Peter Hirons ('the Applicant'), to vary the Designated Premises Supervisor (DPS) naming himself as the proposed DPS for The Leathern Bottle, 77 Meadow, Farncombe, Godalming, GU7 3JG. The application has been brought before the Sub-committee as an objection notice to the proposed variation of this licence has been received from Surrey Police.

It is a mandatory condition under the Licensing Act 2003 that, where the supply of alcohol is one of the licensable activities, there must be a Designated Premises Supervisor (DPS). Guidance states that the Designated Premises Supervisor should normally be the individual who is in day-to-day control of the premises. This is to provide a single point of accountability within the premises should any problems arise.

2. Background

- 2.1. The application submitted by the Applicant is attached at **Annexe 1**.

Enquiries confirm that the Applicant holds a Personal Licence with [Waverley Borough Council].

Where the holder of a premises licence (which authorises the supply of alcohol), has applied to vary the licence so as to specify the individual named in the application as the designated premises supervisor; they must also serve a copy of the application on the Chief of Police for the area in accordance with section 37 of the Licensing Act 2003.

Representation

- 2.2 If the Chief of Police is satisfied that the granting of the application would undermine the crime prevention objective, they must give the relevant licensing authority a notice why they are so satisfied within a period of 14 days beginning with the day on which they are notified of the application stating their concerns. If notice is not received from the Chief of Police (or subsequently withdrawn) the Licensing Authority must grant the application.
- 2.3 In this case, such a notice has been received by officers, a copy of which is attached at **Annexe 2**.
- 2.4 The notice states that Surrey Police are opposing the application submitted by Mr Peter Hirons to become the new DPS on the grounds that his appointment will undermine the crime prevention objective.
- 2.5 Where the application includes a request that the variation shall have immediate effect, the premises licence has effect during the application period as if it were varied in the manner set out in the application i.e. that this person can act as the DPS during the application period. The application did include this request and Mr Hirons has been acting as DPS in the interim period.
3. Annexe 3 to the agenda is an extract from the statutory Guidance issued under Section 182 of the 2003 Act, published in April 2018, regarding Police Objections to a new designated premises Supervisor (DPS) (Paragraphs 4.39 – 4.41).

The guidance can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

The parts of Waverley's statement of licensing policy which are particularly relevant to this application and the representation received are at section
The Licensing Objectives []
Crime and Disorder []

4. **Licensing Objectives**

. The licensing objective engaged by this application is

- **Prevention of Crime and Disorder**

5. Recommendation

- It is recommended that the Sub-Committee considers the application and evidence of all parties involved at the hearing and then determine the application with a view to promoting the licensing objectives.
- Members must determine the application in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- The Sub-Committee should take such steps (as described at paragraph 6.9 below) as it considers appropriate for the promotion of the licensing objectives.

The Sub-Committee is recommended to give appropriate weight to:

- (a) The steps that are appropriate to promote the licensing objectives;
- (b) The representations (including supporting information) presented by all parties;
- (c) Waverley's Statement of Licensing Policy.
- (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018).
- (e) The Licensing Act 2003. T

6. Reason for the recommendation

- 6.1 The general principle is that an application for a variation of DPS, where an objection has been received must be considered at hearing once received unless the Applicant and the Chief Officer of Police who gave the notice of representation agree that a hearing is unnecessary. There has been no such agreement in respect of this application.
- 6.2 The sub-committee must consider Waverley Borough Council's Statement of Licensing Policy when deciding the matter. The terms of the Statement of Licensing Policy are highly persuasive, but not binding, on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.
- 6.3 Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act 2003 must prevail.

- 6.4 Members are required to have regard to the Home Office Guidance issued under section 182 of the Licensing Act 2003 in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case
- 6.5 The guidance will be available for reference purposes at the meeting.* Particular attention is drawn to:
- Specification of DPS – paragraphs 4.31 – 4.38
 - Police objections to a new DPS – paragraphs 4.39-4.41
 - The Licensing Objectives – paragraphs 2.1–2.32
 - Hearings - paragraphs 9.31 to 9.44

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- 6.6 The Licensing Sub-Committee therefore have two options available to them for the application
- a. Having regard to the notice of representation, reject the application if it considers it necessary for the promotion of the crime prevention objectives to do so, or
 - b. Grant the application

7. The Role of the Licensing Sub-Committee – for decision

The Licensing Authority may, having regard to the application take any of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the application or
- Refuse the application

8. Relationship to the Corporate Strategy and Service Plan

- 8.1 Waverley promotes and sustains a thriving local economy.

9. Implications of decision

- 9.1 Resource (Finance, procurement, staffing, IT)

Members should be aware that Environmental and Regulatory Services does not have a direct budget provision for costs, should the applicant be

9. Implications of decision

successful in appealing to the Magistrates Court against a decision of the Council.

9.2 Risk management

Not applicable

9.3 Legal

None

9.4 Equality, diversity, and inclusion

Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the licensee and those making representations when making their decision. The Sub-Committee has a duty under section 17 of the Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Waverley area.

9.5 Climate emergency declaration

There are no matters which directly impact upon the climate emergency declaration.

10. Other options considered

10.1 Not applicable

11. Governance journey

11.1 The vary DPS application was subject to a 14-day consultation with Surrey Police.

Annexes:

Annexe 1 - application

Annexe 2 – Notice of objection from Surrey Police

Annexe 3 – An extract from the statutory Guidance issued under Section 182 of the 2003 Act, published in April 2018, regarding Police Objections to a new designated premises Supervisor (DPS) (Paragraphs 4.39 – 4.41).

Annexe 4 – current premises licence and plans

Background Papers

Background papers, as defined by Section 100D(5) of the Local Government Act 1972) are

The Licensing Act 2003
Guidance under 182 Licensing Act 2003
Waverley's Statement of Licensing Policy

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Agreed and signed off by

Legal Services: date

Head of Finance: date

Strategic Director: date

Portfolio Holder: date