
**MARK RIZK
HEAD OF SERVICE**

**TOWN HALL
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Dear Sir/Madam,

LICENSING ACT SUB-COMMITTEE

You are requested to attend a Meeting of the Licensing Act Sub-Committee in the **Coltman VC Room** at the **Town Hall, Burton upon Trent** on **Thursday 25th August 2022** at **10.00am**.

Yours faithfully,

Mark Rizk
Head of Service

To: **The Chairman and Members of the Licensing Act Sub-Committee:**

Councillors: Mrs P L Ackroyd
S Gaskin
Ms A Legg

PUBLIC ACCESS TO INFORMATION

Members of the Public may attend this Meeting and are also entitled to see the background papers to any report which is not likely to be considered in private. Copies of the public Agenda, background papers, and reports will also be supplied on payment of a copying charge.

Please contact: Monica Henchcliffe (01283) 508608
E-mail: monica.henchcliffe@eaststaffsbc.gov.uk

AGENDA

BUSINESS OPEN TO THE PRESS AND PUBLIC

1. APOLOGIES FOR ABSENCE
2. APPOINTMENT OF CHAIR
3. URGENT BUSINESS

4. **APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR – LOCOMOTIVE SPORTS BAR, 28 STATION STREET, BURTON UPON TRENT, DE14 1AU**

The Report of the Head of Service regarding an Application to Vary a Premises Licence to specify an individual as Designated Premises Supervisor under the Licensing Act 2003.

Reason for consideration by the Committee

The Application has received a relevant Notice from Staffordshire Police Licensing Department via email dated the Monday 18th July 2022.

1. **Application**

An On Line Application was received via email on Monday 18th July 2022 from the Premises Licence Holder, Ms Parmjit KAUR, which is attached as **Appendix 04a**.

This Application was then sent via email to Staffordshire Police Licensing Department on the same day, Monday 18th July 2022 for their Consultation.

A copy of the relevant Notice from Staffordshire Police Licensing Department was received via email dated, Wednesday 20th July 2022 and is attached to the report as **Appendix 04b**.

A copy of the Premises Licence and Summary is attached as **Appendix 04c**.

Applicant's Name:	Parmjit Kaur
Premises Address:	Locomotive Sports Bar 28 Station Street Burton upon Trent Staffordshire DE14 1AU
Premises Licence Number:	PL0610

1.1 **Current Designated Premises Supervisor**

Mathew Shaw

1.2 **Proposed Designated Premises Supervisor**

Ms Parmjit Kaur

2 **Relevant Representations from Staffordshire Police**

Staffordshire Police have made representations to the Application on the grounds that the Application will undermine the Licensing Objective, Prevention of Crime and Disorder.

3. **Law**

Section 37(5) Licensing Act 2003 provides that “*where a Chief Officer of Police notified under Subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the Application would undermine the Crime Prevention objective, he must give the relevant Licensing Authority, a Notice stating the reasons why he is so satisfied*”

(6) The Chief Officer of Police must give that Notice within the period of 14 days beginning with the day on which he is notified of the Application under Sub-Section (4).

Section 39 of the Licensing Act 2003 contains provisions as to the determination of these Applications. Sub-section (2) provides that the Licensing Authority “*must grant*” the Application unless “*Notice is given under Section 37(5) (and not withdrawn)*” ...” and, *having regard to the notice, reject the Application if it considers it necessary for the promotion of the Crime Prevention objective to do so.*”

4. **National Guidance – Guidance issued under Section 182 of the Licensing Act 2003**

The following extracts have been taken from the Guidance issued by the Home Office

Legal status

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.

This Guidance is therefore binding on all Licensing Authorities to that extent. However, this 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 this 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.

Licensing Policies

- 1.11 Section 5 of the 2003 Act requires a licensing authority to determine and publish a Statement of its Licensing Policy at least once every five years. The Policy must be published before it carries out any Licensing functions under the 2003 Act.

- 1.12 However, determining and publishing a Statement of its Policy is a Licensing function and as such the Authority must have regard to this Guidance when taking this step. A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the Licensing objectives. But once again, it is important that it should be able to give full reasons for departing from its published Statement of Licensing Policy. Where revisions to this Guidance are issued by the Secretary of State, there may be a period of time when the Licensing Policy Statement is inconsistent with the Guidance (for example, during any Consultation by the Licensing Authority). In these circumstances, the licensing authority should have regard, and give appropriate weight, to this Guidance and its own existing Licensing Policy Statement

Licensable Activities

- 1.13 The 2003 Act provides for four different types of authorisation or permission, as follows:
- Premises Licence – to use Premises for Licensable activities.
 - Club Premises Certificate – to allow a qualifying Club to engage in Qualifying Club activities as set out in Section 1 of the Act.
 - Temporary Event Notice – to carry out licensable activities at a temporary event.
 - Personal Licence – to sell or authorise the sale of alcohol from Premises in respect of which there is a Premises Licence.

Authorisations

- 1.14 The 2003 Act provides for four different types of authorisation or permission, as follows:
- Premises Licence – to use Premises for licensable activities.
 - Club Premises Certificate – to allow a qualifying Club to engage in qualifying Club activities as set out in Section 1 of the Act.
 - Temporary Event Notice – to carry out licensable activities at a Temporary Event.
 - Personal Licence – to sell or authorise the sale of alcohol from Premises in respect of which there is a Premises Licence

General Principles

- 1.15 If an Application for a Premises Licence or Club Premises Certificate has been made lawfully and there have been no representations from Responsible Authorities or other Persons, the Licensing Authority must grant the Application, subject only to Conditions that are consistent with the Operating Schedule and relevant mandatory Conditions. It is recommended that Licence Applicants contact Responsible Authorities when preparing their Operating Schedules

Each Application on its own merits

- 1.17 Each Application must be considered on its own merits and in accordance with the Licensing Authority's Statement of Licensing Policy; for example, if the Application falls within the scope of a Cumulative Impact Policy. Conditions attached to Licences and Certificates must be tailored to the individual type, location and characteristics of the Premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome Conditions on Premises where there is no need for such Conditions. Standardised Conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the Licensing Objectives in an individual case.

Other relevant Legislation

- 1.19 While Licence Conditions should not duplicate other Statutory Provisions, Licensing Authorities and Licensees should be mindful of requirements and responsibilities placed on them by other Legislation. Legislation which may be relevant includes:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

5 Decision Options

The Licensing Act Sub-Committee is requested to determine the Application.

Vary Designated Premises Supervisor

- a) Grant the Application
- b) Refuse the Application

6 Appeals (Variations)

Application refused – Applicant may appeal to the Magistrates' Court (Schedule 5 Licensing Act 2003)

Application granted – Police may appeal to the Magistrates' Court (Schedule 5 Licensing Act 2003)

7 **Details of who has been invited to attend**

- The Applicant, Parmjit Kaur and/or their Representative
- Staffordshire Police Licensing Department

8. **Date and Time of Hearing**

Thursday 25th August 2022 at 10.00am.

9 **List of Appendices**

- 04a Copy of the Application received on the Monday 18th July 2022
- 04b Copy of the Notice from Staffordshire Police Licensing Department received on the Wednesday 20th July 2022
- 04c Copy of the current Premises Licence and Summary

Report created by Kathryn Critchley, Licensing Officer