



Haverling

LONDON BOROUGH

LICENSING SUB-COMMITTEE VERTIGO LOUNGE - VARIATION OF DPS

AGENDA

10.30 am	Monday 2 September 2013	Council Chamber - Town Hall
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Members 3: Quorum 2

COUNCILLORS:

Peter Gardner (Chairman)
Frederick Thompson
Linda Van den Hende

For information about the meeting please contact:

**Taiwo Adeoye - 01708 433079
taiwo.adeoye@haverling.gov.uk**

AGENDA ITEMS

1 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS

(if any) - receive

2 DISCLOSURE OF PECUNIARY INTERESTS

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any pecuniary interest in an item at any time prior to the consideration of the matter.

3 CHAIRMAN'S ANNOUNCEMENT

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

4 REPORT OF THE CLERK (Pages 1 - 6)

Procedure for the hearing; Licensing Act 2003 – Report attached

5 REPORT OF THE LICENSING OFFICER (Pages 7 - 18)

Application to vary a premises licence to specify an individual as the designated premises supervisor is made by the premises licence holder Mr Darren Eva under s.37 of Licensing Act 2003 (*the Act*). – Report attached

**Andrew Beesley
Committee Administration Manager**



LICENSING SUB-COMMITTEE

REPORT

2 September 2013

Subject Heading:

**Procedure for the Hearing:
Licensing Act 2003**

Report Author and contact details:

**Taiwo Adeoye – Committee Officer
01708 433079
taiwo.adeoye@havering.gov.uk**

Members are advised that, when considering an application to vary a premises licence to specify an individual as the vary a Designated Premise Supervisor licence, the following options are available to them by virtue of the Licensing Act 2003, Part 3, section 35, paragraphs 3 and 4:

"Where relevant representations are made, the authority must

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such steps as it considers necessary for the promotion of the licensing objectives.

The steps are:

- a) modify the conditions of the licence
- b) reject the whole or part of the application

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added."

The Sub-Committee will also wish to note that, if none of these steps is required, the application must be granted.

Assuming that the Sub-Committee is satisfied that a hearing is required, then the following procedural steps are recommended. The Licensing Act 2003 (Hearings) Regulations 2005 will govern the arrangements for the hearing of the application now under consideration. This report accords with the requirements of that Act and the Regulations, and in particular Regulations 21-25 (procedure at the hearing).

1. Membership of the Sub-Committee:

- 1.1 The Sub-Committee comprises three members of the Licensing Committee, with a quorum of two members. **Unless there are objections, in the absence of three members, the hearing shall proceed with the quorum of two.**
- 1.2 A members of the Licensing Committee will be excluded from hearing an application where he or she:
 - 1.2.1 has considered an application in respect of the premises in the previous 12 months as a Member of the Regulatory Services Committee; or
 - 1.2.2 is a Ward Councillor for the Ward in which the premises, subject to the application, are located; or
 - 1.2.3 is a Ward Councillor for a Ward which is likely to be affected by the application or;
 - 1.2.4 has a personal interest in the application.

2. Roles of other participants:

- 2.1 The Legal Advisor is not a party to the hearing. The role of the Legal Advisor is to provide legal advice relating to the application and submissions.
- 2.2 The Clerk is not a party to the hearing. The role of the Clerk is to record the hearing and the decisions of the Sub-Committee, and ensure efficient administration

3. Representation validation meeting:

- 3.1 Prior to this hearing, the Sub-Committee Chairman will have met the Legal Advisor and/or Clerk to determine whether further clarification is required of any issues contained in the application or any representation.
- 3.2 During this preliminary meeting no decision will have been made or discussion held regarding the substantive merits of the application or representations.

4. Location and facilities:

- 4.1 All hearings will be heard at the Havering Town Hall unless otherwise directed.
- 4.2 Interpreters will be provided by the Council on request, provided notice is given at least five working days before the hearing.

5. Notification of attendance:

- 5.1 The Chairman will enquire of the parties who is in attendance and the parties will indicate their names (and, where relevant, whom they represent). A register will be circulated before the commencement of the hearing on which the applicant, his/her advisers and companions and all interested parties (and/or their representatives) will be asked to record their attendance.

6. Procedural matters:

- 6.1 Prior to the commencement of the hearing, the Chairman of the Sub-Committee will orally inform the parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused. Note this relates to people other than those attending on behalf of a party in the capacity as a representative of the party.
- 6.2 Prior to the commencement of the hearing the Chairman of the Sub-Committee will outline the procedure to be followed at the hearing. This will normally be as follows:

Introduction of the application:

The Licensing officer will outline:

- details of the application and relevant representations received from the parties;
- relevant legislation ;
- relevant Licensing Policy; and
- the time limit in which the Council must reach a determination.

Documentary evidence:

- Documentary or other information in support of applications, representations or notices should be provided to the Clerk of the Sub-Committee at least 5 clear working days before the hearing. If this information is produced at the hearing it will only be taken into account by the Sub-Committee if the Sub-Committee and all the parties consent to its submission. Permission to have this information included in the hearing should be requested at the beginning of the hearing before any oral submissions have been made.
- Statements made by people in support of a party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.

Representations:

- The chairman will invite each of the parties at the hearing or their representative sequentially to address the Sub-Committee and call any person/s to whom permission has been granted to appear. Each party will be allowed a maximum period of 10 minutes in which to address the Sub-Committee and call persons on his/her behalf.
- This 10 minute period is where each party has the opportunity to orally address the Sub-Committee and clarify any points in which the Sub-Committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the Sub-Committee or Legal Advisor considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
- Members of the Sub-Committee may ask questions of any party, at any time during the proceedings. Time taken in dealing with a Member's question will not be taken into account in determining the length of time available to the party in question to make their representation.

The sequence in which each of the parties will be invited to address the Sub-Committee will normally be in the order of:

- the Chief Officer of Police;
- the party that has submitted the application, certificate, notice or other matter appearing before the Sub-Committee.

At the discretion of the Sub-Committee the above order may be varied.

Cross-Examination:

Where witnesses have been permitted by the Sub-Committee to speak at the hearing on behalf of a party, permission must be sought from the Sub-Committee before another party can ask the witness questions. This process of questioning is normally referred to as cross-examination. The Sub-Committee will allow cross-examination only where it is necessary to assist it in considering the representations or application.

Relevance:

Information submitted at the hearing must be relevant to the applications, representations, or notice and the promotion of the licensing objectives. The Chairman of the Sub-Committee is entitled to exclude any information it considers to be irrelevant whether presented in written or oral form. The relevant licensing objectives against this application on behalf of the Chief Officer of the Metropolitan Police in

accordance with s.37(5) & (6) of the Act on 7th August 2013 is relates to the:

The prevention of crime and disorder;

7. Failure of parties to attend the hearing:

7.1 If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing is held in the absence of a party, the Sub-Committee will still consider the application, representation or notice submitted by that party.

8. Adjournments and extension of time:

8.1 The Sub-Committee may adjourn a hearing to a specified date or extend a notice period except where it must make a determination within certain time limits in the following specific applications:

- Applications for conversion of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being granted;
- Applications for variation of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being rejected;
- Applications for conversion of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being granted;
- Applications for variation of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being rejected;
- Applications made by holders of justices' licences for personal licences must be determined within 3 months of the application first being received. In default of a decision not being made within this period the application will be treated as being granted;
- Review of premises licences following closure orders where the Sub-committee must make a determination within 28 days of receiving notice of the closure order.

9. Sub-Committee's determination of the hearing:

- 9.1 At the conclusion of the hearing the Sub-Committee will deliberate in private accompanied by the Clerk and the Legal Advisor who will be available to assist the Sub-Committee with any legal problems but will not participate in any decision making of the Sub-Committee.
- 9.2 The Sub-Committee will normally make its determination and announce its decision at the end of the hearing.
- 9.3 Where all parties have notified the Sub-Committee that a hearing is not required the Sub-Committee must make its determination within 10 working days of being given notice that the hearing is not required.

10. Power to exclude people from hearing:

- 10.1 The public are entitled to attend the hearing as spectators. However, the Sub-Committee may exclude any person from the hearing including any person assisting or representing a party where:
 - it considers that the public interest would be best served by excluding the public or the individual person from the hearing; or
 - that person is behaving in a disruptive manner. This may include a party who is seeking to be heard at the hearing. In the case where a party is to be excluded, the party may submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave the hearing.

11. Recording of proceedings:

- 11.1 A written record of the hearing will be produced and kept for 6 years from the date of the determination of the hearing.

12. Power to vary procedure:

- 12.1 The Sub-committee may depart from following any of the procedures set out in this document if it considers the departure to be necessary in order to consider an application, notice or representation.



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LONDON BOROUGH

Licensing Officer's Report



LICENSING SUB-COMMITTEE

REPORT

2 September 2013

Subject heading:

Vertigo Lounge
DPS variation application

Report author and contact details:

Paul Jones, Licensing Officer
5th floor Mercury House, x 2692

This application to vary a premises licence to specify an individual as the designated premises supervisor is made by the premises licence holder Mr Darren Eva under s.37 of the Licensing Act 2003 (*the Act*). The application was received by Havering's Licensing Authority on 29th July 2013.

Details of the application

An incomplete version of this application was submitted to the Licensing Authority on 25th July 2013. The remaining documentation arrived on 29th July 2013. The application was therefore made in accordance with s.37 from this date. Under the provisions of s.38 the application was given an immediate and interim effect upon its successful submission until such time that the matter is determined.

If the Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention licensing objective he must give a notice to the Licensing Authority stating the reasons why he is so satisfied within 14 days of the application having been made. Where such a notice is given the application must be determined under the provisions of s.39.

Police objection notice

PC Jason Rose, Havering Borough Police Licensing Officer, submitted an objection notice against this application on behalf of the Chief Officer of the Metropolitan Police in accordance with s.37(5) & (6) of the Act on 7th August 2013. The objection notice is based upon the Police satisfaction that granting authority to the intended DPS would undermine the crime prevention licensing objective. PC Rose's objection notice expands upon his concerns in relation to the application.

Paul Jones
Licensing Officer
London Borough of Havering



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Copy of Application



RECEIVED
25 JUL 2013

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

[full name(s) of premises licence holder]

DARREN EVA

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 009762

Part 1 – Premises details

Postal address of premises or, if none ordnance survey map reference or description

17-19 STATION LANE

Post town

HORNCHURCH

Post code

RM12 6JL

Telephone number (if any)

01708 474183

Description of premises (please read Guidance Note 1)

BAR AND RESTAURANT.

Part 2

Full name of proposed designated premises supervisor

EMMA LEEANNE JOYCE

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

BAS PM3406

Full name of existing designated premises supervisor (if any)

STEVEN JAMES STALLION

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003



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

CHECKLIST

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



I have enclosed the consent form completed by the proposed premises supervisor



I have enclosed the premises licence, or the relevant part of it or explanation



I will give a copy of this form to the existing premises supervisor, if any



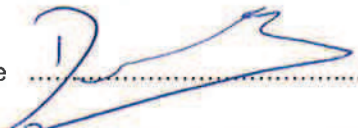
I understand that if I do not comply with the above requirements my application will be rejected



IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 5 – Signatures (please read Guidance Note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent. (See Guidance Note 3) **If signing on behalf of the applicant please state in what capacity.**

Signature  Date 24/7/2013

Capacity Premises Licence Holder

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read Guidance Note 4) **If signing on behalf of the applicant please state in what capacity.**
Signature

Signature Date

Capacity

Contact name (where not previously given) and address for correspondence associated with this application (please read Guidance Note 5)	
<u>EMMA JOYCE</u> <u>17-19 STATION LANE</u> <u>4</u>	
Post town <u>HORNCHURCH</u>	Post code <u>RM12 6JL</u>
Telephone number (if any) <u>07708 47483</u>	
If you would prefer us to correspond with you by e mail your e mail address (optional) <u>emma@vertigo lounge.co.uk</u>	

Guidance Notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.



Consent of Individual to being specified as premises supervisor

I, EMMA LEEANNE JOYCE
[full name of prospective premises supervisor]

of
12 MORELAND ROAD
WICKFORD
ESSEX SS11 7JU.

.....
[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premise supervisor in relation to the application for

VARIATION OF DPS
[type of application]

by
DARREN EVA
[name of application]

relating to a premises licence 009762
[number of existing licence]

for
VERTIGO LOUNGE
17-19 STATION CAFE
HORNCROFT
ESSEX RM12 6JL

.....
[name and address of premises to which the application relates]

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

..... DARRIN ZVA
[name of applicant]

concerning the supply of alcohol at

VERTIGO LOUNGE
17-19 STATION LANE
HORNCHEWELL
ESSEX RM12 6JL

.....
[name and address of premises to which the application relates]

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

Personal licence number

..... BAS RM3406
[personal licence number, if any]

Personal licence issuing authority

BASILDON

.....
[insert name and address and telephone number of the personal licence issuing authority, if any]

Signed

.....
.....
..... EMMA JOYCE

Name [please print]

Date

.....
..... 24-7-13



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Valid Representations



Working together for a safer London

Licensing Authority
London Borough of Havering
Mercury House, Mercury Gardens
Romford
RM1 3SL

PC 282 KD Jason ROSE

Romford Police Station

19 Main Road

Romford,

Essex

RM1 3BJ

Telephone: 01708 432781

Email:

Jason.Rose@met.pnn.police.uk

Date: 7th AUGUST 2013

Ref: - Objection to Change of DPS – Ms Emma Leeanne JOYCE

The Metropolitan Police wish to submit an objection notice against the application for a change of Designated Premises Supervisor (DPS) at VERTIGO, 17-19 STATION LANE, HORNCHURCH, RM12 6JL. This is in accordance with the guidelines set out in the Licensing Act 2003. Police are satisfied that granting authority for Emma JOYCE to act as DPS would undermine the crime prevention objective.

The applicant is currently a holder of a personal licence issued by Basildon Council on 10/11/2010. During this application process Ms JOYCE declared convictions to the local authority. Ms JOYCE received a custodial sentence of 5 years imprisonment at ISLEWORTH CROWN COURT on 2nd September 2005. This conviction relates to knowingly being concerned in the evasion of a prohibition or restriction on the import of a Class A drug, namely Cocaine. Although this conviction was nearly 8 yrs ago, under the Rehabilitation of Offenders Act 1974 this conviction can not be classified as spent due to the length of the custodial sentence (Over 30 months)

Importation of cocaine is an offence under sec 170 (2) Custom and Excise management Act 1979, and is therefore a relevant offence as described in Schedule 4 Licensing Act 2003.

The circumstances leading to this conviction are straightforward. The applicant arrived at HEATHROW AIRPORT, Terminal 3 on the 30th March 2005. This flight had arrived on UK shores from St. Lucia via Port of Spain. During a search of a suitcase, officials found cocaine solution inside two factory sealed wine bottles within the case.

This application is to enable Ms JOYCE to perform a role of responsibility and trust within the licensed premise industry. The industry is an environment by its very nature that has illegal substances present through out. The applicant is not only working in an environment where drugs may be consumed and potentially sold but is requesting to be placed in a position of responsibility, a position that must enforce and promote the licensing objectives. Police question whether Ms Joyce's background will not hinder her in resisting temptation.

The conviction detailed above is the applicant's only criminal conviction; however it is a very serious one. Police and law enforcement teams across the U.K spend considerable time and money combating the unlawful possession, supplying and importation of controlled substances.

Many pubs and bars have drug related issues which are in turn linked to other crime. A DPS is required to uphold the law and indeed have a zero tolerance to drugs; they are responsible for their staff and customers alike. Police would therefore argue that granting authority for this change of DPS would have a detrimental impact on the crime prevention objective. If the applicant is not of a suitable nature to enforce robust zero tolerance policies at licensed premises, crime will continue to grow. Such an environment may offer temptation to the applicant fall into a drug culture once more. Police are not convinced or satisfied that Ms JOYCE would complete her duties within the law and that temptation being present on a daily basis may prove too hard. Ms JOYCE served only three years of a 5 years sentence; police believe this is too short a period for the applicant to prove no cause for concern.

My colleague, Pc FERN visited the premises (VERTIGO) on 26th JANUARY 2012 and conducted a sample swipe test for drugs inside the premises. The toilet area was tested and the then DPS was present. The results of the test showed traces of cocaine in a female toilet cubicle on the first floor. This is clear evidence of drug use at the premises which reinforces police concerns under the prevention of crime and disorder. With the incorrect DPS in place, offences may rise having a negative impact on the licensing objectives.

I have a duty to protect the public from crime and disorder under the Act and to ensure subjects who hold such responsibility in their role of DPS are able to implement measures to prevent crime at such venues. Police recognise that the risk of drug use at licensed premises is high. The applicant was convicted of a serious related class A importation offence. Given these concerns I must strongly oppose this application at this time.

Licensed premises in general create crime on a minor scale and also organised. It is for this reason we need to eliminate the risk to the public by having responsible people running such venues. I cannot support this application at this time as I believe that the applicant is not yet suitably rehabilitated to be granted such a responsible role within a licensed premise.

If the applicant insists for this application to be considered I will seek a Licensing Committee Hearing to determine the outcome.

If I can be of any further assistance in this matter please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Pc Jason ROSE', written in a cursive style.

PC Jason ROSE 282KD
Metropolitan Police - Havering
Licensing Officer

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