



LICENSING SUB-COMMITTEE GIDEA PARK CONVENIENCE STORE

AGENDA

10.30 am	Friday 4 October 2013	Council Chamber - Town Hall
-----------------	----------------------------------	--

Members 3: Quorum 2

COUNCILLORS:

Peter Gardner (Chairman)
Denis Breading
Pam Light

**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 20023) – Report attached

5 REPORT OF THE LICENSING OFFICER (Pages 7 - 26)

Application for a variation of Designated Premises Supervisor (DPS) at Gidea Park Convenience Store 150 Balgores Lane RM2 6BP – Report attached

Andrew Beesley
Committee Administration Manager



Havering
LONDON BOROUGH

LICENSING SUB-COMMITTEE

4 October 2013

REPORT

Subject Heading:

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

Report Author and contact details:

**Taiwo Adeoye (01708) 433079
e-mail: taiwo.adeoye@havering.gov.uk**

Members are advised that, when considering an application to vary a Designated Premises Supervisor (DPS), 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. Chairman's Briefing 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 Fire Authority;
- the Health and Safety at Work Enforcing Authority;
- the Local Planning Authority;
- the Local environmental Health Authority;
- the Local Weights and Measures Authority;
- the Authority Responsible for the Protection of Children from Harm;
- a navigation or other authority responsible for waterways; and
- any other party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Sub-Committee;
- 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 licensing objectives are:

The prevention of crime and disorder;

Public safety;

The prevention of public nuisance; and

The protection of children from harm.

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:
- 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.



Licensing Sub-Committee

Section 1 - Licensing Officer's Report

Appendix 1 - Copy of the application

Appendix 2 - Representations from Responsible Authority

This page is intentionally left blank



Licensing Sub-Committee

Section 1 - Licensing Officer's Report

This page is intentionally left blank



LICENSING SUB-COMMITTEE

REPORT

4 October 2013

Subject Heading:

Objection to variation of Designated Premises Supervisor (DPS) at Gidea Park Convenience Store 150 Balgores Lane RM2 6BP

Report Author and contact details:

Paul Campbell – Licensing Officer
01708 432777
licensing@havering.gov.uk

This application to vary the DPS at Gidea Park Convenience Store 150 Balgores Lane RM2 6BP is made by Mrs Radhika Navak under section 37 of the Licensing Act 2003. The application was received by Havering's Licensing Authority on 30th August 2013.

Geographical description of the area and description of the building

The premises are a convenience store and off licence situated in Balgores Lane

This application was made by the Premises Licence holder Mrs Radhika Navak to vary the DPS at the premises from herself to Mr Kirushnawaran Kirushnakopalu who holds a Personal Licence number DH/PER/876/2010 issued by Dartford Borough Council.

In accordance with the regulations a copy of the application was sent to the police by the applicant.

Only the police may place a representation objecting to a new DPS if they feel it will undermine one or more of the licensing objectives.

A DPS is the person who is ultimately responsible for the supply of alcohol at a premises.

On 12th September 2013 the licensing authority received the representation from the police objecting to Mr Kirushnakopalu being the DPS at these premises. Their representation outlines fully their concerns about this person holding the DPS post at the premises.

This page is intentionally left blank



Licensing Sub-Committee

Appendix 1 - Copy of Application

This page is intentionally left blank



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]

MRS RADHIKA NAVAK

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	001527
-------------------------	--------

Part 1 – Premises details

Postal address of premises or, if none Ordnance Survey map reference or description

150 BALGORES LANE
GIDEA PARK

Post town ROMFORD

Post code RM2 6BP

Telephone number (if any) 01708 726998

Description of premises (please read Guidance Note 1)

CONVENIENCE STORE WITH OFF-LICENCE AND NATIONAL LOTTERY.

Part 2

Full name of proposed designated premises supervisor

KIRUSHAWARAN KIRUSHNAKOPALU

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

DH/PER/876/2010

Full name of existing designated premises supervisor (if any)

MRS RADHIKA NAYAK

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 G. Radhika Date 2/8/2013

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)	
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. 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

KIRUSHNAWARAN KIRUSHWAKOPALU

[full name of prospective premises supervisor]

of 3 MAYFAIR ROAD

DARTFORD

DAISY

.....
[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

Designated Premises Supervisor

[type of application]

by

Application to vary a premises licence to specify an individual as Designated Premises Supervisor.

relating to a premises licence

001527

[number of existing licence]

for

GIDEA PARK CONVENIENCE STORE

150 BALGORES LANE, GIDEA PARK, ROMFORD, RM2 6BP.

[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

.....
[name of applicant]

concerning the supply of alcohol at

.....
[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

..... DH/PER/876/2010
[personal licence number, if any]

Personal licence issuing authority

DARTFORD BOROUGH COUNCIL

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

Signed

..... K. Kirushwawaran

Name [please print]

..... KIRUSHWAWARAN KIRUSHWAKOPARAN

Date

..... 28/08/13



PERSONAL LICENCE

Holders full name:

Mr Kirushnawaran Kirushnakopalu

Licence No: DH/PER/876/2010

Expiry Date 31/12/2020

Enforcement & Regulatory Services



Joanne Philpott Senior Licensing Officer

DARTFORD
BOROUGH COUNCIL

Mr Kirushnawaren Kirushnakopalu
3 Mayfair Road
Dartford
Kent
DA1 5AG

Please ask for: Caroline Hillman
Direct Line: (01322) 343000
Direct Fax: (01322) 343607
E-mail: caroline.hillman@dartford.gov.uk
DX: 31908
Your Ref: Personal Licence
Our Ref: DH/PER/876/2010
Date: 16 December 2010

Dear, Mr Kirushnakopalu

Re: Application for Personal Licence - Licensing Act 2003.

I enclose your Personal Licence issued under the above Act which is valid for 10 years and authorises you to sell or supply alcohol by retail at any premise where a Premises Licence is in force throughout England and Wales.

Dartford Borough Council (The Licensing Authority) is the authority responsible for the administration and enforcement for your Personal Licence whilst it is valid, no matter where in the country you live or work.

A holder of a Personal Licence commits an offence if they:

1. Fail to notify the Licensing Authority of a change of name or address.
2. Fail to notify a court, when charged with a relevant offence that the defendant is a Personal Licence holder, or to produce the licence to the court.
3. Fail to notify the Licensing Authority of conviction for a relevant or foreign offence.
4. Fail to produce a Personal Licence for inspection by an authorised officer or constable on licensed premises.

All the above notifications should be given in writing to the Licensing Section at the address below.

Yours sincerely



Caroline Hillman
Licensing Administrator

This page is intentionally left blank



Appendix 2 - Representations from Responsible Authority

This page is intentionally left blank



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: 11th SEPTEMBER 2013

Ref: - Objection to vary premises licence to specify an individual as designated premises supervisor (DPS) – Mr Kirushnawaran KIRUSHNAKOPALU

The Metropolitan Police wish to submit an objection notice against the application for change of DPS at Gidea Park Convenience Store, Gidea Park Convenience Store, 150 Balgore Lane, Gidea Park made by Mr Kirushnawaran KIRUSHNAKOPALU in accordance with s.37 of the Licensing Act 2003. The applicant is currently a holder of a personal licence issued by Dartford Borough Council on 13/12/2010.

Police are satisfied that granting this DPS change to the nominated individual will undermine the crime prevention and protection of children objectives. Police are aware that the applicant has recently sold alcohol (1 bottle of Bulmer's Cider) to a 16 year old female volunteer. The applicant did not challenge the volunteer as to their age or request any identification. The sale of alcohol to a person under 18 years old is a criminal offence under s146 (1) of the Licensing Act 2003. The particular details to this offence are -

On Thursday 20th JUNE 2013 officers from Trading Standards and I attended a number of premises across Havering borough testing the availability of alcohol to children. During our travel to one premise in Hornchurch we drove past Gidea Park Convenience Store, Gidea Park Convenience Store, 150 Balgore Lane, Gidea Park. My attention was immediately drawn to this premise as a number of youths approx 12 -15 yrs of age were congregated directly outside the venue. I could clearly see that two of the youths were drinking from open bottles of Corona Larger.

We later attended the venue (1950 hrs) and a 16yr old female volunteer was deployed to enter the shop. A few moments later she exited the store informing Trading Standards she was sold an alcoholic bottle of Red berries Bulmer's Cider for £2.39. It was confirmed that the male seller, later identified as Mr Kirushnawaran KIRUSHNAKOPALU had sold this alcoholic drink to the volunteer making no attempt to ask for identification or clarify the female's age at any point.

Both Trading Standards and I entered the premises a few moments later, I instantly saw a "Special deal price" on Corona Larger which highlighted the fact youths were outside drinking this particular brand earlier in the day. The only staff member on duty at the premises was Mr Kirushnawaran KIRUSHNAKOPALU; he admitted he had sold to the volunteer saying he thought she was older than 16yrs of age. I pointed out the offence of "Selling alcohol anywhere to a person under 18" contrary to

s146 (1) of the Licensing Act 2003. Mr KIRUSHNAKOPALU stated "I understand, I thought she was 25".

Mr KIRUSHNAKOPALU confirmed he was a personal License holder and produced this as identification (Ref DH/PER/876/2010). After police completed checks it was ascertained the male was suitable for disposal by way of a fixed penalty notice (Penalty Notice for Disorder). He accepted his involvement and accepted the penalty notice (PND issued 01/A67875394 - £80 fine).

It was also noted at the time of the test purchase that no refusal log was in place and no evidence of any challenge scheme such as challenge 21 or 25 in operation at the premises. Attempts were made to contact the DPS at the time however this was unsuccessful. Future attempts also failing. This showed a complete disorganised system, a system that was not promoting the licensing objectives in any way. Not only did Mr KIRUSHNAKOPALU sell to our volunteer it was clearly apparent that sales had been conducted by the venue to the group of youths present earlier in the day, how many times has this happened? No refusal log or entries may suggest this is a regular occurrence.

A subsequent meeting was held with the responsible authorities at Mercury House on 15th July to speak about this incident. During this meeting Mr Kirushnawaran KIRUSHNAKOPALU made very little comment, showed very little remorse and did not convince police that he was suitable to take a position of DPS at the premises. The premise licence holder and current DPS, Mr and Mrs NAVAK spoke for the premises. Police fear that if Mr Kirushnawaran KIRUSHNAKOPALU is given more responsibility at the premises further sales to children will inevitably be made.

Police suggest this application is to enable the applicant higher levels of responsibility at the premises. Police therefore feel that granting this variation would detrimentally impact on the crime prevention and protection of children objectives. If the applicant is not of a suitable nature to enforce such clear and obvious policies at a grass root level, surely giving him more responsibility will only increase the possibility of a care free attitude, in turn raising the chance of future underage sales.

I have a duty to protect children and the public from crime and disorder under the Act. I must ensure subjects who apply for such positions are able to implement measures to prevent crime and protect children from harm. Designated Premise Supervisors should be of a nature whereby they do not encourage, promote or take part in such activity namely supplying alcohol to minors.

Given this recent event and Mr KIRUSHNAKOPALU failure to convince police he will not sell again to children, I must strongly oppose this application at this time.

If the applicant insists for this 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



PC Jason ROSE 282KD
Metropolitan Police - Havering
Licensing Officer