

REPORT OF THE EXECUTIVE DIRECTOR OF NEIGHBOURHOODS

LICENSING SUB-COMMITTEE – 16 FEBRUARY 2022

LICENSING ACT 2003 – CONSIDERATION OF APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS A DESIGNATED PREMISES SUPERVISOR

JOSEPHS BAR, 29 HOLMESIDE, SUNDERLAND, SR1 3JF

1.0 PURPOSE OF REPORT

- 1.1 To consider an application to vary the premises licence to specify an individual as a designated premises supervisor of the above-mentioned premises.

2.0 DESCRIPTION OF DECISION

- 2.1 The Sub-Committee is requested to have regard to the representation detailed in paragraph 4.1 below and to reject the application if they consider it appropriate for the prevention of the crime prevention objective to do so.

3.0 INTRODUCTION/BACKGROUND

- 3.1 Members will recall that this matter was scheduled to be considered by the Sub-Committee at its meeting held on the 19 January 2022. However, immediately prior to the start of the meeting the applicant, Mr Shipley, had informed the Licensing Section that he was unable to attend as he had shown symptoms of Covid 19, he had advised that he had taken a PCR test the day before the hearing but was still awaiting the results. In view of these circumstances, Mr Shipley requested an adjournment of the hearing to a later date.
- 3.2 The solicitor representing Northumbria Police, Ms Helen Thompson, stated that she felt it was right that the applicant be given the opportunity to attend to put forward his case, but did express concerns that there had been numerous previous attempts by the Police to hold meetings with Mr Shipley which he had not attended. The Police agreed to the request for an adjournment but felt that evidence of the PCR test should be provided. They were concerned that Mr Shipley had known the day before the hearing that he had taken the PCR test but had waited until immediately prior to the hearing to inform of his inability to attend.
- 3.3 Members noted that Mr Shipley had failed to attend previous meetings with the Police, and also the short notice Mr Shipley had given for not being able to attend the meeting. They agreed that evidence of the PCR test being undertaken needed to be provided by Mr Shipley.
- 3.4 Following the discussions regarding the above matter at the meeting on 19 January 2022, Members resolved that the hearing be adjourned to a future meeting of the Sub-Committee to be arranged for the week commencing 14 February 2022 in order to allow Mr Shipley the opportunity to attend, and that evidence of a PCR test being undertaken be required from Mr Shipley.

- 3.5 Following the above meeting, Licensing officers immediately informed Mr Shipley of the Sub-Committee's decision taken to adjourn the hearing of his application, and also asked him to provide evidence of having undertaken a PCR test. On 31 January 2022, officers received an email from Mr Shipley enclosing a document that appears to be a screenshot of a text message he had received from the NHS confirming that a PCR test he had undertaken on 18 January 2022 had showed a negative result. A copy of the screenshot attached to the email received from Mr Shipley is attached at Appendix 3.
- 3.6 On 19 November 2021 an application was received from Tony Shipley the premises licence holder in respect of Josephs Bar to vary the premises licence to specify Mr Mark Morrison as the designated premises supervisor under section 37 of the Licensing Act 2003. A copy of the application form is attached at Appendix 1.
- 3.7 Mr Morrison currently holds a Personal Licence issued by Sunderland City Council.

4.0 CURRENT POSITION

- 4.1 On 30 November 2021 a letter was received on behalf of the Chief Officer of Northumbria Police stating that they wished to object to the application to vary the premises licence to specify Mark Morrison as the designated premises supervisor.
- 4.2 On 14 January 2022, Northumbria Police submitted additional information in the form of a statement made by Sergeant Maria Ord dated 10 January 2022 in support of their objection to the application. Copies of the objection letter and further statement submitted by the Police are attached at Appendix 2.
- 4.3 The Secretary of State's Guidance issued under the Licensing Act at Section 4.39 includes that "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 particular premises gives rise to exceptional concerns."
- 4.4 In Section 4.40 the Guidance further states that "where the police do object, the licensing authority must arrange a hearing at which both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up the post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from his 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."

5.0 REASONS FOR THE DECISION

- 5.1 To determine the application as requested by section 39(3) of the Licensing Act 2003.

5.0 ALTERNATIVE OPTIONS

6.1 None submitted.

6.0 RELEVANT CONSIDERATIONS/CONSULTATIONS

7.1 There are no other considerations that require the attention of the Sub-Committee.

8.0 GLOSSARY

8.1 No acronyms or abbreviations have been used in this report.

9.0 LIST OF APPENDICES

9.1 Appendix 1 – Application form.

9.2 Appendix 2 - Objection from Northumbria Police.

10.0 BACKGROUND PAPERS

None.