

# Crawley Borough Council

## Minutes of Licensing Sub Committee

Friday 15 June 2012 at 10.30am

### Present:

Councillors            B J Burgess, C J Mullins and K B Williamson

### Officers Present:

Tony Baldock	Environmental Health Manager
Mike Lyons	Senior Licensing Officer
Astrid Williams	Legal Clerk - Solicitor
Chris Pedlow	Democratic Services Officer

### Also in Attendance:

Applicant	Mr S Panchal ( <i>Agent for Applicant</i> ) Mr Rajveer Juneja ( <i>Applicant</i> ) Mr Ebrahim Orabhai ( <i>Employee of the Agent</i> )
Responsible Authority	Chris Boyle ( <i>Sussex Police – Licensing Officer</i> ) PC Ian Vasey ( <i>Sussex Police - Police Constable</i> ) Peter Savill ( <i>Barrister for Sussex Police</i> )

### 1. Appointment of Chair

#### RESOLVED

That Councillor B J Burgess be appointed Chair for the meeting.

### 2. Members' Disclosure of Interests

No disclosures of interests were made by Members.

### 3. Application for the Grant of a Premises Licence applicable to 'Best One', 4 The Broadway, Crawley West Sussex

The Sub Committee considered an application for the granting of the premises licence held in respect of the Best One, 4 The Broadway, Crawley. Following the introduction of those present at the meeting, the Legal Clerk outlined the procedure for the meeting. The Legal Clerk informed all parties that the Sub Committee had requested a briefing meeting with the Legal Clerk prior to the commencement, to confirm the

procedure that would be followed during the meeting. It was confirmed that the Sub Committee had also asked for clarification from the Applicant on his relationship with the current Licence Holder, Mr Preet Singh Dhawan. The Legal Clerk had informed both parties prior to the commencement of the meeting of this request to allow them time to address the clarification during their presentations.

The Legal Clerk then asked all parties present if they wished to make any relevant applications, for example additional information or to cross-examine any party. Mr Panchal, the applicant's representative commented that he had two applications to make to the Sub Committee. The first was a request that a further piece of information be considered at the hearing, which was a set of proposed conditions that his client would find acceptable to be added to his application. It was confirmed that Sussex Police had received a copy of the new information prior to the meeting. Mr Savill, Sussex Police's representative confirmed that they did not object to the Sub Committee having sight of the proposed conditions. However, it was made clear that by agreeing that the new information be included, the Police was not necessarily agreeing with the consent of the document. Mr Savill asked the Sub Committee if he might comment upon the proposals as part of the Police's presentation, which was agreed by the Members. The Sub Committee then agreed to the inclusion of the new information and asked that Mr Panchal to guide them through the document during his representation on behalf of the applicant. The Sub Committee also agreed to allow all parties to reserve the right to cross-examine should it be required.

Mr Panchal then made his second application to the Sub Committee which was that any discussion relating to Mr Preet Singh Dhawan be heard in Part B - exempted to the public. He explained that as there was currently an appeal by Mr Dhawan in the courts over the previous Sub Committee's decision to revoke his premises licence in respect of this premises, 4 The Broadway. Mr Panchal stated that he was concerned that should any discussion relating to that case occur during the Sub Committee's hearing, it may prejudice the court case.

Mr Savill objected to the application and he questioned whether Mr Panchal had the right to speak on behalf of Mr Dhawan, who was not his client. In addition, he said part of the rationale of Sussex Police's objection to the new licence was the link between Mr Preet Singh Dhawan, Mr Mohan Singh and the applicant Mr Rajveer Juneja. He said if the applicant wanted to make it clear to the Sub Committee that there was no link, surely that would be in the public interest to make this clear in an open hearing rather than behind closed doors.

The Sub Committee decided to retire to close the session to consider the application.

## **RESOLVED**

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the Hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the Hearing taking place in public.

### **4. Application for the Grant of a Premises Licence applicable to 'Best One', 4 The Broadway, Crawley West Sussex**

The Sub Committee gave further consideration to the application for aspects of the Hearing to be held in the absence of the public. In formulating its decision, the Sub

Committee took into account the options that were available to them and considered what was necessary to ensure that the licensing objectives were promoted.

## **RESOLVED**

The Sub Committee concluded it was in the public's interest that the hearing be fully heard in public.

### **5. Application for the Grant of a Premises Licence applicable to 'Best One', 4 The Broadway, Crawley West Sussex**

The Chair declared the meeting re-open for consideration of business in public session. She announced their decision and then invited Crawley Borough Council's Senior Licensing Officer to present report PES/078 of the Council's Head of Planning and Environmental Services

#### **The Application**

The Senior Licensing Officer, Mr Lyons, informed the Sub Committee that on the 24 April 2012 Mr Rajveer Juneja, submitted an application to the Council as the Licensing Authority for the Borough of Crawley for a new premises licence in respect of the 'Best One', 4 The Broadway. It was emphasised that the application was for the supply of alcohol for consumption off the premises, with a proposal that the supply of alcohol taking place on Monday to Sunday from 07.00 to 23.00. A copy of the full application was detailed in Appendix A, which includes the proposed lay-out of the premises and how the applicant intends to promote the four licensing objectives. It was confirmed that the application had been advertised in accordance with legislation and as a result of the consultation process, Sussex Police as the Responsible Authority had submitted a representation of objection to the application, on the grounds of the licensing objectives of preventing crime and disorder and public safety. A copy of their submission was included as Appendix B.

The Sub Committee were then guided through the remainder of the report which set out the reasons for the Hearing and matters which the Sub Committee should take into consideration when dealing with the application, including the relevant sections of the Guidance issued by Government pursuant of Section 182 of the Licensing Act 2003, and the Council's policy considerations. In going through the report Mr Lyons informed the Sub Committee that there was a mistake in paragraph 6.2, and it should read "*The Council is required to consider the impact any decision may have on an individual's Human Rights*".

He then proceeded to inform the Hearing of the options available to it in respect of the application and reminded the Sub Committee that they must take such steps as they considered appropriate for the promotion of the four licensing objectives, and that their decision must be proportionate. He reminded them the steps available were to:

- (a) Grant the application subject to:
  - (i) conditions which are consistent with the operating schedule modified to such an extent as the authority considers appropriate for the promotion of the licensing objectives, and
  - (ii) any relevant mandatory conditions;

- (b) Exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) Refuse to specify a person in the licence as the premises supervisor;
- (d) Reject the application, giving reasons for doing so.

**The Applicant**

Mr Panchal addressed the Sub Committee on behalf of his client, Mr Juneja the applicant, stating that his client was making this application solely as an individual as he was buying the business to run on his own. He heard that the business had been put up for sale and he saw the opportunity to make an investment for him to branch out on his own. It was confirmed that Mr Juneja had no relations with nor has any family ties with the current premises license holder, Mr Preet Singh Dhawan. Mr Panchal commented that his client's current business was registered at the same accountants where the company, Game & Phone Studio, was also registered. However, this was common practice for small businesses, especially in the Asian community, as even Mr Panchal's own company was registered at the same accountants.

Mr Panchal then directed the Sub Committee to how the applicant was intending to promote the four licensing objectives as detailed in Section P of the application form (page A/30). He commented that combined with the proposed tabled conditions, (as detailed as Appendix A to the minutes) showed that his client was committed to ensure that the entire licensing objective were adhered to. Also importantly that Mr Juneja would be running the business separately and without any involvement from the current owners. In terms of taking over the premises the applicant would need three weeks to finalise the transfer of the business and he would therefore not want the proposed licence to commence before that. Mr Panchal said that there was nothing further that he would like to add to his client's case, as the applicant was supporting the proposed conditions. However they would be more than happy to provide any clarification on any aspect of the application to the Sub Committee.

Mr Savill asked the Sub Committee's permission to be able to seek some clarity from the Applicant on a number of the points expressed in his verbal submission, as it would be important that those points be clear prior to the Police explaining their objection. Members were happy for that to occur.

<b>Questions by Mr Savill</b>	<b>Response by Mr S Panchal or Mr Juneja (unless stated otherwise)</b>
Was Mr Preet Singh Dhawan the current DPS and that Wimhurst Limited was the licence holder.	No Mr Preet Singh Dhawan was both the current DPS and licence holder. <b>(Response by Licensing Officer)</b>
Who owns the current business?	Wimhurst Limited
Who were directors/owners of Wimhurst Limited and how are they related to the current DPS	Mr Surbr Singh Dhawan and Mr Mohan Singh were the directors.  Mr Surbr Singh Dhawan and Mr Mohan Singh were to Mr Preet Singh Dhawan, cousin and brother respectively.

Who were the directors of Game and Phone Studio Limited?	Mr Rajveer Juneja and Mr Mohan Singh
Just to confirm the Director of the Applicant's business was a relative of the current DPS/Licensing Holder and he also owned the business the Applicant was buying?	Yes. Mr Mohan Singh.
When had the business been put up for sale?	Did not know the exact date. But he believed Mr Preet Singh Dhawan put it up for sale, fair soon after his premise licence was revoked.
How did Mr Juneja learn about Best One', 4 The Broadway being up for sale? Was it through a formal advertisement?	The property was not advertised on the 'open market', which was common practice within the Asian community. Properties that were or likely to be available were passed by word of mouth across the community, normally 80% shops were sold this way. Mr Juneja heard about the business and thought it was a good opportunity for him to branch out on his own. He intends to run the shop with his brother with no link to Wimhurst Limited or the current DPS. He intends to run the shop with his brother with no link to Wimhurst Limited or the current DPS.
Questioned if the transaction of the purchase of the business had been done by a clear arms length method.	The method for the proposed sale was very common within the Asian community and there were plenty of examples of this.
Who has the applicant agreed to buy the business from?	From Wimhurst Limited with agreement of Mr Preet Singh Dhawan. The offer was provisional, subject to Mr Juneja gaining the premise licence.  Mr Juneja would be taking over the lease, currently Wimhurst Limited.
Who was the landlord of the property?	We do not have that information at the meeting but the property would be leased via a leaseholder. It was believed that the freehold had recently been sold also.
What relationship does the Applicant have with the property owners and the Leaseholder? Without knowing the names, Sussex Police cannot be certain over this.	There were no links. As stated previously, we do not have that information available at the Hearing

Following the ending of the Applicant's presentation and questioning, the Sub Committee invited Sussex Police to present their case.

**Responsible Authority**

Mr Savill addressed the Sub Committee on behalf of Sussex Police (SP), saying that their objection to the application was clearly detailed within the documentation, but he would highlight the key elements. In February 2012 the Sub Committee revoked the premise licence for the property in question, following an application by Trading Standards, supported by SP due to the sale of counterfeit alcohol and cigarettes and the danger to the public as a result. Also in April 2012, a criminal case was brought against the licence holders and the owners of the premises, where they were fined over £33,000 as a result of the counterfeit goods being sold. With that in mind and that the premises has clearly been severely and dangerously mismanaged, the Sub Committee must be absolutely assured before granting a new premise licence to the property, that the application before them was not an attempt to circumvent the previous decision. However, the SP were not convinced this was the case and in the interest of public safety and the prevention of crime and disorder they were objecting to the application.

The documentation provided by SP clearly shows close business links between the applicant and the current owners of 4, the Broadway. As the Sub Committee have heard Mr Juneja, the applicant and Mr Mohan Singh were co-directors of Game and Phone Studio Limited. Mr Mohan Singh was also a director of Wimhurst Limited, the current owners of the Premises and he was the brother of Mr Preet Singh Dhawan the DPS had his premises licence revoked at 4 the Broadway. SP would not have objected to the new premises application if it was genuinely a new business taking over the premises, was separate to the previous owners and was being run in a new manner. However, SP were not satisfied that there had been an open sale of these premises with an arms length transaction and most importantly they were not satisfied that the current owners would not still be involved in the business in some form.

Having listened to Sussex Police's statement the Sub Committee wished to seek further clarifications from the Applicant. They confirmed that they needed to be confident in considering the application that there would be no involvement in Mr Juneja's business, from the previous licensee and those individuals involved in Wimhurst Limited, including if they were involved with the leasing or ownership of the building. They commented that it was as result of the serious danger the public could have been in with the counterfeit products.

Questions by the Sub Committee	Response by Mr S Panchal or Mr Juneja
Where was the financing coming from for purchasing the business?	The business would be costing £50,000 and Mr Juneja would be taking a loan out for this. He had a loan agreed in principle with a bank, but to finalise that and other factors was why he stated he would need 3 weeks from receiving the licence before reopening the premises.
How can you assure that Mr Mohan Singh and Mr Preet Singh Dhawan would not be involved in your business?	Mr Juneja was buying the business in his own right with the bank accounts, to the lease being in his sole name. To show this one of our proposed conditions (number 3) was to exclude them from all aspects of the business and operational activities at all times. If they do get involved, Mr Juneja would be in breach of his premise license as a result.

<p>Was there an intention of eventually selling the business back to the former owners?</p>	<p>No. He's intending to run the business profitably for the foreseeable future.</p>
<p>Did the applicant have an agreement with 'Best One' for the shop?</p>	<p>The use of the name 'Best One' was via franchise agreement with the wholesale 'Best One'. At present Mr Juneja has not signed up with 'Best One' and he may not.</p> <p>He would not take over the current Wimhurst Limited 'Best One' franchise, if he chose to continue with 'Best One' he would set up his own independent franchise.</p>
<p>Please tell us more over the lease holder and freeholder of 4 Broadway and his relation to them, if any?</p>	<p>Sorry as previously stated we do not have the name of the leaseholder and the freeholder at the meeting. We could try and gain this information via a phone call if the Sub Committee requested it.</p> <p>Mr Panchal submitted to the Sub Committee that issues over the lease were not covered under the Licensing Act.</p>

Mr Savill commented that the Applicant might be able to provide the name of the Freeholders and Leaseholders through a phone call today. However, that information would not confirm if there were any links to the Applicant and as the Sub Committee was making a decision on a licence today, could they be confident in their decision. He reminded the Sub Committee that if they were not satisfied with the level of information provided to them when making their decision then their final decisions could be unlawful. He continued by sighting Bristol City Council v Murco, where a president was set that a Sub Committee had the right to adjourn to gain further information before making its decision.

Mr Savill addressed the proposed additional conditions tabled by the applicant. Sussex Police (SP) firstly would like to suggest, where the Sub Committee minded to grant the licence, that the Sub Committee might wish to consider adding a further condition that the premises becomes a member of Shop Watch. As proposal number 1 was already a mandatory condition, with the proposals number 5, 8, 10, 11, 12, and 14, SP would have no objection to them, and with number 6, SP would hope that that condition be extended to include training for and use of a refusal register, along with the need for general 'refresher' training for the staff. Numbers 7 and 9 on CCTV, Sussex Police proposed that the 'standard' wordings for CCTV conditions that the Sub Committee had used previously be used and on 13 it should be reworded to state that only when licensable activities were occurring on the premises, then a personal licence holder would be on duty. Proposals 2 and 4 were too vague to be enforceable, without specifically stating the suppliers where the applicant would be able to purchase alcohol. Finally proposal 3, it was a very difficult condition to comment upon without knowing exactly who the Freeholder and the Leaseholder of the premises were. If they were either Mr Preet Singh Dhawan or Mr Mohan Singh, then the condition would arguably be unlawful, as it would be banning the owner or leaseholder access to their own building. If they did enter the premises then the applicant would be in breach of his licence.

### **Closing Comments**

After hearing the cases from all parties, the Sub Committee decided to retire into closed session to consider the application before them. They said that as a result of the discussions, one of the key elements that they would be discussing was could they make a fair decision without knowing all the information. For example, the names of the Freeholders and Leaseholders and their relationship, if any with the applicant. Also to ensure that the purpose of the purchase and the running of the business had occurred through an arms length transaction without involvement of the current License Holder or Wimhurst Limited.

## **RESOLVED**

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the Hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the Hearing taking place in public.

### **6. Application for the Grant of a Premises Licence applicable to 'Best One', 4 The Broadway, Crawley West Sussex**

The Sub Committee gave further consideration to the application and to the matters raised at the meeting. In formulating its decision, the Sub Committee took into account the options that were available to them and took into account the regulations made under the Licensing Act 2003.

## **RESOLVED**

The Sub Committee, having considered the application and the relevant representation in detail, felt that they were unable to make a satisfactory decision on the application before them, without further information being provided to them. The Sub Committee adjourned the Hearing to a date to be advised, to allow time for the information to be obtained so it could be considered when the hearing resumed.

### **7. Re-Admission of the Public**

The Chair declared the meeting re-open for consideration of business in public session and announced that the Sub Committee felt they could not make a decision without further information being provided. That information being, who were the Freeholder and the Leaseholder of 4, The Broadway and what, if any, were their relationship with Mr Juneja.

At this point Mr Panchal commented that whilst the Sub Committee were in closed session they found out that the name of the Freeholder was Mr Z. Karmali and the Leaseholder was Mr B. Batra. The Sub Committee thanked them for gaining that information however, without having them in context, it would not affect their decision to adjourn the hearing, as Sussex Police had not been able to consider and respond to that information.

The Sub Committee informed the hearing of the decision to adjourn the hearing. It was requested that the Applicant provide any further information to the Council and to Sussex Police, to allow time for Sussex Police to consider the information in advance of the adjourned hearing date. The Sub Committee asked both parties on their views



on the adjournment. Both confirmed that it seemed the most logical decision and both parties supported the Sub Committee's decision.

It was also agreed that the Committee Clerk set up the date of the recommencement of the Sub Committee Hearing as soon as practicably possible, whilst in communication with all parties.

## **8. Closure of Meeting**

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 13.05 pm.

B J Burgess  
**Chair**

**Appendix A**

BEST ONE

MR RAJVEER JUNEJA

(T/A Best One, 4 The Broadway, Crawley, RH101DS)

Applicant

-And-

CRAWLEY BOROUGH COUNCIL

**PROPOSED CONDITIONS**

1. No sale/supply of alcohol shall be made when there is no Designated Premises Supervisor in respect of the Premises Licence.
2. All purchases of alcohol for sale from the premises will be from specified suppliers.
3. The premises licence holder shall exclude Mr Preet Singh Dhawan and Mr Mohan Singh from the premises of 4 The Broadway, Crawley, RH10 1DS and all of its business and operational activities at all times
4. The premises licence holder shall not purchase any alcohol from door to door sellers.
5. The premises licence holder shall ensure all receipts for goods brought include the following details:
  - a. The sellers name and address
  - b. The sellers company details, if applicable
  - c. The sellers VAT details
6. The challenge 25 scheme shall operate on the premises at all times with all employees and other persons selling alcohol from the premises being full trained in the requirements of the scheme.
7. At least one staff member (in addition to the DPS) shall be trained in the operations of the CCTV. At least one staff member who has been trained in the operations of the CCTV systems shall be present on the premises at all times to operate the CCTV. The trained staff member must be able to provide a police officer or authorized Council officer recent data of footage with the absolute minimum delay when requested and provide a copy of the footage immediately if so requested.

8. The premise may not carry out any licensable activities when the CCTV is not operational and /or not on the premises.
9. All images from the cameras should be able to be retained for a period of 31 days and must be available for the police and local authority without charge. Persons on duty in the premises should have the ability and training to download at the time of request
10. All drinks containing alcohol should be displayed within direct line of sight from the cashier.
11. Products containing alcohol with an ABV above 35% and champagne should be displayed behind the counter or otherwise locked behind a display.
12. The counter top should be lower than one meter from the floor. The floor behind the counter shall be raised by 100mm.
13. There should always be a personal licence holder on duty in the shop whilst the shop is trading.
14. No alcohol should be displayed less than 2 meters from the door.