

Crawley Borough Council

Minutes of Licensing Sub Committee

Friday 29 June 2012 at 2.30pm

Present:

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

Officers Present:

Steve Kirby	Enforcement and Technical Services 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>)
Responsible Authority	Sgt Tony Jarred (<i>Sussex Police - Police Sergeant</i>) Peter Spink (<i>Barrister for Sussex Police</i>)

9. Appointment of Chair

RESOLVED

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

10. Members' Disclosure of Interests

No disclosures of interests were made by Members.

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

The Sub Committee reconvened the hearing of its consideration of the application for the grant of a Premises Licence applicable to 'Best One', 4 The Broadway, Crawley West Sussex. Following the introduction of those present, the Legal Clerk reminded them that hearing on 15 June 2012 had been adjourned, at the request of the Sub Committee, for further information to be obtained as to who the leaseholder and freeholder were of '4 The Broadway'. It was emphasised that the reason for requesting that information was twofold: to ensure that the proposed purchase of the

lease of the premises by the applicant had been progressed thought an 'arm length transaction', and to ensure that the previous Licence Holder, Preet Singh Dhawan and his business partner Mr Mohan Singh, would no longer be involved in any aspect of the new business proposed to be run from the premises by the Applicant. It was confirmed that both the Applicant and Sussex Police had agreed to the adjournment, as it allowed the Applicant time to seek the information, and Sussex Police time to fully analyse the forthcoming information in advance of the hearing.

It was noted that since the agenda for the hearing had been published two sets of further information had been provided to all parties, the first by the Applicant – the *requested information* on the lease and freeholders respectively. The second, published separately, was Sussex Police's response to that information. All parties confirmed that they had received copies of all the documents. The Legal Clerk then outlined the procedure for the remainder of the hearing and confirmed that she had met with the Sub Committee, on their request, prior to the commencement of the meeting, to confirm the procedure that would be followed during the meeting.

The Chair of the Sub Committee invited the Applicant to present the requested information.

Applicant

Mr S Panchal, on behalf of Mr Juneja, said that they could confirm that Beldor Management Ltd were the freeholders of 4 The Broadway, and that their tenant was Silverstand Ltd, as shown on p.Z/3 of report PES/078. He continued by stating that on p.Z/2 of the same report was a signed document from Mr H S Batra, Director of Silverstand Enterprise Ltd, confirming that Mr Juneja would be sub-letting, 4 The Broadway, shortly replacing Wimhurst Limited. Finally Mr Panchal drew to the attention of the Sub Committee that, as shown on p.Z/1, it was believed that Beldor Management Limited had recently sold the freehold to a Mr Z. Karmali and he was bound to the lease with Silverstand Enterprises Ltd.

Mr Panchal commented that he would like to provide some additional information to the hearing, a set of three invoices, to help address the concerns raised by Sussex Police in their response document. The Legal Clerk reminded the Sub Committee that at a hearing no new information could be provided without the agreement of all parties, as stated in the section 18 of the hearing regulations. As a result, a copy of the invoices were passed to Sussex Police to examine and Mr Spink, Sussex Police's representative, confirmed that they did not object that the Sub Committee have sight of the invoices. However, it was made clear that by accepting that the new information be included, it did not mean the Police accepted that the information was relevant and they reserved the right to question the Applicant on the information. The Sub Committee were then passed a copy of the invoices and Mr Panchal commented that the invoices showed that Wimhurst Ltd had been paying rent quarterly to Silverhurst Enterprises Ltd for 4 The Broadway. Thus Silverstand Enterprises Ltd was the leaseholder of the property.

The Sub Committee commented that they would ask any questions once they had heard from Sussex Police and they then invited them to present their new information in response to that presented by Mr Panchal.

Responsible Authority

Mr Spink addressed the Sub Committee and stated that, with its permission, he would present the Police's response to the requested information through asking questions

of the Applicant against what Sussex Police had found. The Sub Committee confirmed that they were happy with that approach.

Questions and comments by Mr Spink (<i>unless stated otherwise</i>)	Responses by Mr S Panchal or Mr Juneja (<i>unless stated otherwise</i>)
You stated that the freehold had recently been sold, but you had not provided any documentation evidence confirming that Beldor Management Ltd (BML) had sold the building?	Mr Juneja was informed that the premises was sold by auction, as stated previously and in the documentation provided.
Do you have any further information about sale? e.g. When was the auction? Cost of the sale? Which auction-house?	It was about a month ago, they did not have anything further. The new freehold owner, Mr Karmali, walked into the premises one day and informed the current management that he had bought the building. Mr Juneja was informed of this as part of his purchase.
As shown in our information (Enclosure Q) Sussex Police (SP) had made an enquiry with Land Registry over who had recently made enquiries against title deeds. The finding were that no conveyance had been made, which would be highly unusual if a property was going to be or had been sold. What concerned SP was that there was no evidence of any sale results or statement from either BML or Mr Karmali on this matter.	What the Applicant knew was that BML were the freeholders and that they were selling it to Mr Karmali. However Mr Panchal's client's responsibility for leasing the premises was with and through Silverstand, and their lease with the freeholder would not be affected by the sale.
SP did not accept that the Applicant had or was purchasing the premises in an 'arms length transaction' and the evidence provided over Mr Karmali had not eased their concerns.	Unable to answer on that.
Further investigation by SP of the property at Land Registry (as detailed in Appendix Q of the report) showed that BML had a lease agreement with Silverstand Ltd. However the Applicant had stated that Silverstand Enterprises Ltd were the leaseholders that he would be leasing from. A further search, this time through Company House, showed that Silverstand Ltd and Silverstand Enterprises Ltd, were too very separate companies with different Directors, Secretaries and location addresses.	The leasing agreement that Mr Panchal's client had was with Silverstand Enterprises Ltd as shown in the letter from Mr Batra, in the provided information (Enclosure Z)

<p>Please confirm whom your agreement was with? As we don't accept an arms length transactions has or was taking place, as all the information provided was conflicting, confusing and didn't hold water?</p>	
<p>This was your opportunity to put before the Sub Committee information to allay the concerns raised by SP, however the information provided appeared to lead to more questions. It did not provide any evidence that the purchase would happen via an 'arm length transaction', and that it would be run without any outside involvement.</p>	<p>Mr Panchal was here to represent Mr Juneja's application, based on the information that had been sent to him.</p>
<p>(Asked by the Sub Committee) - What we understand from the Applicant was that he was proposing to lease the premises from Mr Batra. But he might not own the lease, another similar named company might, and that the freehold might or might not have been sold.</p>	<p>We have spoken to Mr Batra and he had stated that he owns the lease for the premises, 4 The Broadway.</p>
<p>Have you agreed a fee for the premises and also had the length of the lease been set?</p>	<p>Mr Juneja had agreed a fee of £50,000, plus the cost of the stock, with Wimhurst Ltd.</p> <p>On the lease a 5 years lease had been provisionally agreed with Mr Batra.</p>

At this point the Sub Committee pointed out to Mr Spink that he seemed to be asking a number of questions addressed at the previously meeting. In response Mr Spink said he would end Sussex Police's case at that point to ensure that he did not go over old ground. The Sub Committee then asked both parties to provide their closing comments, before they retired to consider their decision.

Closing Comments

Responsible Authority

Sussex Police's concern was that the application before the Sub Committee was a sham to circumvent the previous decision made on 22 March 2012, that being to revoke the premises license which had been deemed necessary as two licensing objectives had not been met. The written evidence shows clear links between the applicant Mr Juneja and the previous DPS and Wimhurst Limited the previous owners of the business. In Court the owners had pleaded guilty to seven criminal charges relating to the premise and were fined £30,000 as a result. The links were clear Mr Juneja and Mr Mohan Singh were both Directors in Game and Phone Studio Limited, Mr Mohan Singh was a Director in Wimhurst Limited and his brother was the Licence Holder, Preet Singh Dhawan, whose licence was revoked.

Mr Spink said that the Sub Committee had requested information to clarify and ensure that an 'arm length transaction' between the applicant and the previous owners was taking place and this was to ensure that their previous decision was not circumvented and Mr Preet Singh Dhawan and Mr Mohan Singh had no further involvement or influence on the premises.

However on the evidence provided today it simply did not add up, but simply pointed to a sham application. The information on the freeholder stated that Beldor Management Ltd were the owners but might have recently sold it via auction to Mr Karmali. But as of 27 June 2012, two dates prior to this Hearing, there had been no enquiries with regards to the property's title. It was inconceivable that Mr Karmali would have foreclosed on the sale of the freehold without making enquiries about the title of the property he was buying. On the issues of the lease, Sussex Police's documentation showed that Silverstand Ltd were the leaseholder and not Silverstand Enterprises Ltd, who Mr Juneja said had an agreement with. Silverstand Enterprises Ltd was not a subsidiary or seemingly linked to Silverstand Ltd, they both had very different Directors and registered addresses.

Mr Spink asked how could the Sub Committee have confidence with the Applicant that his application was completely genuine, with his clear links to the very licence holder and DPS and company who pleaded guilty to criminal offences, along with the fact that the documentation provided surrounding the premises, did not seem to hold water. Sussex Police urged the Sub Committee to reject the application for the new premise licences. Finally, proposed condition 3 was not a practical condition as it was unenforceable.

The Applicant

Mr Panchal commented that he was very disappointed by Mr Spink's use of the word "sham." The application was in respect of Mr Juneja and should be considered as such and it was not for, or relating to, the previous management Wimhurst Limited. Everyone had the right to start their own business, to apply for a premises licence and they should not be judged on the mistakes made by others. Mr Juneja did have a link to the Mr Preet Singh Dhawan, but that should not affect his application for his own premises licence for his own business.

The 2003 Licensing Act did not make reference to issues surrounding leases as a appropriate factor to consider whether to grant a Premise Licence. It was up to the applicant to agree with the Leaseholder how he operated from the premises. It was possible to have a premises license for a property without leasing or owning it.

In conclusion, to allay any concerns Mr Juneja has clearly stated that the application was for his own new business which he would be running on his own without any affiliation or influence from the previous licence holders. He had shown how he would meet the licensing objectives, including the proposed conditions and Mr Juneja also had no criminal record. Any issues regarding the lease was not a consideration under the Licensing Act 2003. With that said Mr Juneja had the right to be granted the Premises License applied for.

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.

12. 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 considered what was necessary to ensure that the licensing objectives were promoted.

RESOLVED

The Sub Committee, having considered the application and the relevant representations in detail, resolved to take the actions as detailed in **Appendix A** to these minutes, because it was considered necessary to promote the licensing objectives.

13. Re-admission of the Public

The Chair declared the meeting re-open for consideration of business in public session and commented that the Sub Committee had requested that their decision and its rationale be announced by the Legal Clerk on their behalf.

Prior to reading out the decision, the Legal Clerk informed those present of the advice she had provided during the closed session which included reminding the Sub Committee of its responsibilities within the Licensing Act. The Legal Clerk read out the Sub Committee's decision as detailed in **Appendix A** to these minutes. It was also announced that all parties would receive a copy of the decision notice within five days of the Hearing.

14. Closure of Meeting

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 5.36 pm.

B J Burgess
Chair

Appendix A

Decision of the Licensing Sub-Committee sitting at Crawley Borough Council in relation to the application for a premises licence by Mr Rajveer Juneja in respect of the premises at 4 The Broadway, Crawley

1. The hearing in respect of Mr Rajveer Juneja's application for a premises licence for the premises at 4 The Broadway, Crawley ("the Premises"), was heard by a Licensing Sub-Committee of Crawley Borough Council on 15 and 29 June 2012.
2. At the conclusion of the hearing the Licensing Sub-Committee notified those present of their decision. Set out below the decision and the reasons for it.
3. The Sub-Committee listed carefully to submissions made on behalf of the Applicant and on behalf of Sussex Police on both 15 and 29 June 2012.
4. The argument made by Sussex Police (both in its relevant representation, in the 2 witness statements, and in oral submissions) in objecting to the grant of the licence was as follows:
 - 4.1 They referred to the decision of a sub-committee on 22 March 2012 to revoke the premises licence held by Mr Preet Singh Dhawan following a review applied for by Trading Standards. The review was applied for following the finding of counterfeit alcohol and cigarettes and labelling offences at the Premises.
 - 4.2 Sussex Police believed that the Applicant was an associate of the existing licence holder, Mr Preet Singh Dhawan.
 - 4.3 The Premises had been so seriously mis-managed by Mr Dhawan, the Police therefore had serious concerns that if granted to an associate of Mr Dhawan then the result would be the licensing objectives again being undermined.
 - 4.4 Sussex Police submitted that given the serious history, the Sub-Committee therefore would wish to be absolutely assured that there was no attempt, via this application, to circumvent the decision of 22 March 2012.
5. One of the submissions made on behalf of the Applicant during the hearing on 15 June 2012 was that he was intending to purchase the business being run by Wimhurst Ltd at the Premises and take on a lease of the Premises. The following was also stated in evidence by the Applicant, or in submissions on behalf of the Applicant, during the hearing:
 - 5.1 That the Mr Mohan Singh Dhawan, being his co-director of the company Game and Phone Studio Limited, is the same person as Mr Mohan Singh listed as a director for the company Wimhurst Ltd, said to be the company current running the business at the Premises.
 - 5.2 This person (Mr Mohan Singh) is either the brother or cousin of Mr Preet Singh Dhawan (precisely which was not made clear to the committee).
 - 5.3 The business was not advertised for sale and the Applicant found out that it was for sale by word of mouth, and that the price of the sale of the business was about £50,000.

6. Following the evidence during the hearing from the Applicant of his intention to purchase the business being run from the Premises, the Police in response submitted to the Sub-Committee that it would wish to be satisfied that this purported sale was an arms' length transaction in order to be satisfied that this application by an associate of Mr Preet Singh Dhawan was not a way to circumvent the decision of the sub-committee of 22 March 2012.
7. The Police asked questions of the Applicant in relation to who held the freehold and leasehold of the Premises, and submitted that the Sub-Committee would wish to know this information as part of the facts in order to determine whether the proposed purchase of the business and taking on of a lease of the Premises were in fact arms' length transactions.
8. After brief enquiry on 15 June 2012, the Applicant could not ascertain this information and the hearing was adjourned to 29 June 2012 to allow the Applicant to furnish this information.
9. When the hearing resumed on 29 June 2012, the Sub-Committee considered the additional information provided by the parties which included:

From the Applicant

- 9.1 A letter dated 16 June 2012 from a H S Batra on letterhead showing the name Silverstand Enterprises Ltd stating that: *"we had sub-let the premises, 4 The Broadway, Crawley, to Wimhurst Limited. The tenancy agreement will undergo a change shortly as it's being let to Mr. Rajveer Juneja"*.
- 9.2 The first page of a lease between Beldor Management Limited and Silverstand Limited (03014988).
- 9.3 An undated written covering document signed by Mr Panchal (the Applicant's representative at the hearing) stating that the freeholder of the Premises, Beldor Management Ltd, had recently sold the premises to a Mr Z Karmali.
- 9.4 3 invoices submitted at the hearing with the Police's consent.
- 9.5 During submissions, on behalf of the Applicant it was stated that the Applicant's belief that Mr Karmali had recently purchased the freehold of the Premises came from a man coming into the shop and stating so, and that the sale had been at an auction approximately a month ago.

From the Police

- 9.6 Witness statement of Karen Godfrey to which was exhibited:
 - 9.6.1 Freehold title for the larger parcel of land of which the Premises is part.
 - 9.6.2 List Enquiry.
 - 9.6.3 Leasehold title for the Premises.
 - 9.6.4 Company search for Silverstand Limited.
 - 9.6.5 Company search for Silverstand Enterprises Limited.
10. In making its decision, the Sub-Committee had regard to the following:
 - 10.1 The application, documentation provided in support, the submissions made on behalf of the licence holder by his representative and the evidence given by the Applicant himself.

- 10.2 The relevant representation made by Sussex Police and documentation provided in support, and the submissions made on its behalf at the hearing.
- 10.3 The guidance issued by the Secretary of State pursuant to s.182 of the Licensing Act 2003.
- 10.4 The Council's own Licensing Policy.

DECISION

11. The Sub-Committee decided that the appropriate step for the promotion of the licensing objectives, in particular the objectives of (1) prevention of crime and disorder and (2) public safety, was to refuse the application.

REASONS

12. The Sub-Committee took the Police's concerns seriously. They noted that the Police had established a clear link between the Applicant and the existing licence holder, Mr Preet Singh Dhawan. They noted that the Applicant stated the sale of the business was not advertised and at the hearing on 15 June 2012 he could not identify the leaseholder of the Premises.
13. It was clear from the documentation that the Applicant himself provided, and confirmed by the Police's documentation, that Silverstand Ltd (company no. 3014988) holds the leasehold of the Premises direct from the freeholder. The Sub-Committee noted that the letter from Silverstand Enterprises Ltd stated that the "tenancy" would undergo a change shortly and the Premises would be let to the Applicant. What was completely unclear from the evidence and information provided by the Applicant were the details of the relationship, if any, between the leaseholder and the company Silverstand Enterprises Ltd. Further, despite being questioned about this, the Applicant was unable to provide any answer about any relationship between Silverstand Enterprises Ltd and the leaseholder. The Sub-Committee found this lack of knowledge unconvincing of a person who is genuinely said to be in negotiations to take on a lease of the Premises.
14. The Sub-Committee concluded there was a real risk that the application was a way to circumvent the decision of 22 March 2012 and were re-affirmed in this view given the lack of evidence from the Applicant to indicate that his purported purchase of the business and lease of the Premises was a fact arms' length transaction.