

DELEGATED

AGENDA NO.

**REPORT TO LICENSING
COMMITTEE**

30 July 2018

LICENSING ACT 2003

**APPLICATION TO VARY A PREMISE LICENCE TO SPECIFY AN INDIVIDUAL AS A
DESIGNATED PREMISES SUPERVISOR (DPS)
LEZA'S LOCAL (FORMERLY EXPRESS DRINKS)
14 BOWESFIELD LANE, STOCKTON-ON-TEES TS18 3EP**

SUMMARY

The purpose of this report is for Members to determine an application to vary the premises licence to specify an individual as a designated premises supervisor under the Licensing Act 2003. A notice of objection from Cleveland Police has been received, they are satisfied that there are exceptional circumstances and that granting of the application would undermine the crime prevention objective.

RECOMMENDATION

That Members determine the application.

THE APPLICATION

1. An application to vary the premise licence to specify an individual as a Designated Premises Supervisor of a premise licence has been received from Mr Shorsh Rasoul Ismail in relation to Leza's Local, 14 Bowesfield Lane, Stockton-On-Tees. A copy of the application is attached at Appendix 1.

A copy of the existing licence is attached at Appendix 2 for information.

RESPONSIBLE AUTHORITIES

2. A notice of objection has been received from Cleveland Police. The Chief Officer of Cleveland Police is satisfied that the exceptional circumstances of the case are such that granting this application would undermine the crime prevention objective.

The police are concerned as this premise licence is currently subject to a review application by Trading Standards following the execution of a warrant on 15 March 2018 where numerous counterfeit cigarettes and bottles of vodka were seized. Present on the premises at the time of the warrant was Mr Shorsh Ismail.

Cleveland Police are of the opinion that given the circumstances of the warrant, allowing Mr Shorsh Ismail to become the DPS will send out the wrong signal and potentially undermine the review application.

A copy of the notice of objection is attached at Appendix 3.

INTERESTED PARTIES

3. None

POLICY CONSIDERATION

4. Members must carry out their functions with a view to promoting the four licensing objectives:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
5. Members are respectfully reminded of the need to give due consideration to Stockton Borough Councils Licensing Policy Statement and the Section 182 Revised Guidance issued April 2018 under the Licensing Act 2003 when determining this application.

The guidance states

- 4.39 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 the particular premises give rise to exceptional concerns
- 4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post of DPS immediately and, in such cases, the issue would be whether the individual should be removed from this 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.
- 4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

MEMBERS OPTIONS

6. Under Section 39 (3) of the Licensing Act 2003 Members must:
 1. hold a hearing to consider the objection notice, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
 2. having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.

ASSOCIATED PAPERS

7. The following appendices are attached for information:
Appendix 1 - Application Form
Appendix 2 - Copy of Existing Licence
Appendix 3 - Notice of Objection from Cleveland Police
Appendix 4 - Location Map

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Financial Implications:

None

Environmental Implications:

The Licensing Act 2003 requires the licensing authority to have regard to:

- The Prevention of Crime and Disorder

Legal Implications:

i) Where a licensing authority rejects an application to vary the DPS the applicant may appeal against that decision.

ii) Where an application to vary the DPS is granted where the chief officer of police gave an objection notice, the chief officer of police may appeal against the decision to grant the application.

Community Safety Implications:

The Licensing Act 2003 requires the licensing authority to have regard to:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Human Rights Implications:

As a licence is deemed to be a personal possession Members should have regard to the Human Rights Act when determining this application.

Background Papers:

Stockton Borough Council Licensing Policy Statement and revised Section 182 Guidance April 2018

Ward(s) and Ward Councillors:

Parkfield & Oxbridge
Councillor Baldock
Councillor Hewitt