

*Please reply to:*

Contact: Gillian Hobbs  
Service: Corporate Governance (Committees)  
Direct line: 01784 444243  
E-mail: g.hobbs@spelthorne.gov.uk  
Our ref: GH  
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## **SPELTHORNE BOROUGH COUNCIL**

### **DECISION NOTICE**

**In accordance with the LICENSING ACT 2003 s.23**

**Date of Licensing Sub-Committee:** 29 September 2011

**Applicant:** Mr Harparit Singh

**Premises:** 117 Groveley Road  
Sunbury  
TW16 7JZ

**REASON(S) FOR HEARING:** Relevant representations received from responsible authorities concerning Crime and Disorder, Prevention of Public Nuisance and Child Protection:-

- Troubled history of the premises
- Crime, disorder and antisocial behaviour of some young people hanging around the premises

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### **DECISION**

Granted subject to modification by the addition of conditions

With effect from 29 September 2011

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## REASONS FOR DECISION

1. The application is for a premises licence for 117 Groveley Road, Sunbury, TW16 7JZ.
2. The applicant for the Licence, Mr. Harparit Singh, attended the hearing, accompanied by his solicitor, Mr V. Puri and represented by Counsel, Mr J. Petts.

### Attendance

3. Five people attended the Sub-Committee hearing to make representations. They are:
  - Mr Harparit Singh, Applicant;
  - Mr V. Puri, Solicitor for Mr. Singh;
  - Mr J. Petts, Barrister, representing Mr Singh
  - Sgt. Iain Scott of Surrey Police;
  - Mr Rob Towers of Surrey Trading Standards;

### Evidence

4. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing and in doing so has taken into account the Regulations and National Guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

### Responsible Authorities

5. Relevant representations were received from Surrey Police and Surrey Trading Standards.

### Interested Parties

6. There were no representations from interested parties.

### Application

7. The application is to permit the sale of alcohol for consumption off the premises. The hours proposed for the sale of alcohol are the same as the proposed opening hours which is from 08.00 to 23.00 daily.

## EVIDENCE

### Background

8. The shop previously operated as a grocery store with off sales permitted under a justices' licence granted under the Licensing Act 1964 and then a premises licence under the Licensing Act 2003. The shop had a history as a focus of youth disorder and underage sales had taken place in the recent past. Three applications had been made for the review of premises licences

in relation to this shop; in December 2007, July 2009 and June 2011 respectively. These had all led to revocations of the licences.

9. The applicant has recently taken over the lease and the shop has been operating as a general grocery store. The applicant has been involved in the running of a shop in the same parade as "Just 4U", called "Dream Express" at 129 Groveley Road, which has held a licence since a hearing to determine the application in September 2007. An underage sale was made during a test purchase by Surrey Trading Standards within one month of the Dream Express licence having been issued and a fixed penalty was issued to the member of staff who made the sale. However, there had been no complaints or issues brought to the attention of the Council in relation to Dream Express since 2007.

### **Applicant**

10. Mr Petts acknowledged that there had previously been problems at these premises but that Mr Harparit Singh was in no way connected to the previous occupiers. Mr Harparit Singh had acquired the lease for 'Just 4 U' on 6 September 2011 and a copy of this had been circulated to all parties prior to the hearing. This documentation, together with a statement from Mr. Harparit Singh, demonstrated that 'Just 4U' was under completely new management.
11. Mr Harparit Singh had been involved in the day to day running of Dream Express at 129 Groveley Road as a personal licence holder since 2007. He had applied on the same day as the hearing to be the designated premises supervisor and premises licence holder at Dream Express.
12. Mr Petts explained that the main issue at the premises in the past had been underage sales. He circulated to the Sub-Committee letters from Trading Standards relating to Dream Express and referring to the fact that this premises had successfully passed test purchases for underage sales. He also handed over the refusals book from Dream Express, which showed instances of alcohol refusals, for inspection. Mr Petts stated that Mr Harparit Singh would be happy to accept a condition on this licence requiring him to keep a refusals book.
13. Mr Petts demonstrated, by referring to the decision notice in respect of the revocation for the previous premises at this location, namely Sunny Food and Wine, that the reason the previous licence at this premises was called in for review was due to non-compliance with the conditions of the licence. If the conditions had been complied with, there would not have been problems at the premises and the licensing objectives would have been met.
14. Other than one incident soon after the licence was granted in September 2007, when a fixed penalty notice was issued for an underage sale, no

concerns had been raised to suggest that Dream Express did not adhere to its conditions. Mr Petts submitted that if Mr Harparit Singh adopted the same policy for running Just 4 U as he did for Dream Express then the local youths would soon get the message that they would not be able to buy alcohol at these premises.

15. Mr Harparit Singh responded to questions from the Sub-Committee to explain that he employed three members of his family as staff at Dream Express and that they had worked there for 2 years. He had trained them himself and provided 6 monthly refresher training.
16. As he and his staff had worked at Dream Express for a number of years they knew the local youths and how old they were but regardless of this they still asked for ID from anyone who looked under 25. He assured the Sub-Committee that the staff would not sell to anyone who looked under 25, without ID. However, he was happy to accept a condition requiring the use of till prompts to supplement the training, by reminding staff of the need to check the age of a customer purchasing alcohol.
17. He explained that as he intended to make a success of two businesses in close proximity, he would sell a variety of alcoholic products at the two Premises to ensure his customers had a choice. He offered a condition on the Premises Licence that there shall be no sale of single cans of beer to anyone and that beer can only be sold as a pack of four or more.
18. He noted comments from Surrey Trading Standards that there was no need for another off-licensed premises in the vicinity but explained that a convenience store 'without' an off-licence would not be a viable business for any leaseholder of the premises as the sale of alcohol formed a great part of the business sales.

### **Responsible Authorities**

19. Surrey Police made representation against the granting of a premises licence on the basis that they had little confidence that licence conditions would be met for the following reasons:
  - these premises were located in a residential area and had a long history of selling alcohol to under age persons. Surrey Police felt there was a belief by youth in the area that they could obtain alcohol as they had done in the past, regardless of the persons running the premises. There was a risk therefore that young people would again attempt to purchase alcohol if a licence was granted;
  - on Friday 23 September 2011, police had attended Dream Express to speak to Mr Harparit Singh and observed a group of 14/15 year olds hanging around, in and outside the shop, who appeared to be waiting for the police to leave and

- previous licence holders had assured the Council that they would do everything to ensure there were no sales of alcohol to children but had failed to implement and uphold the conditions required.
20. Sgt Scott requested that if the Sub-Committee was minded to grant the licence it impose more robust conditions on the licence to ensure that staff were properly and professionally trained and that records were kept of such training.
  21. Rob Towers on behalf of Surrey Trading Standards objected to the grant of the licence.
  22. Trading Standards' main concern was that the same problems would start to recur if another premises licence was granted. The licences for premises at this particular location had been revoked three times in the past, all due to underage sales of alcohol and with three different proprietors. The history of the premises had shown that no amount of conditions on the licence would prevent the sale of alcohol to underage persons.
  23. In addition, there was no shortage of off-licensed premises in the vicinity of this premises, two being within 100 metres.
  24. Mr Towers stated that he accepted the documentation which had been provided to show that there was no connection between Mr Harparit Singh and the previous premises licence holders at this location.
  25. Mr Towers requested that if the Sub-Committee was minded to grant the licence that it consider imposing the same conditions as the licence for Sunny Food and Wine but that staff training be required on an external accredited course. He believed that if this condition was complied with it would take away the stress from Harparit Singh having to train his staff and enable him to better manage both premises.

## **Findings**

26. The Sub-Committee has considered the representations made by the applicant and responsible authorities and finds as follows: -
27. The applicant has demonstrated to the Sub-Committee that he has run Dream Express, which is on the same parade, with little incident over the past four years and he has procedures in place to ensure that underage sales do not take place. He was keen to make a success of the business in the long run and assured the Sub-Committee that he would take his duties seriously.

28. The Sub-Committee took the view that as Mr Harparit Singh had shown he could run Dream Express without problems, then it was likely he would be able to transfer the same successful operation to this premises.
29. The Sub-Committee was persuaded that the previous problems at these premises were due to lack of compliance with licence conditions and it had no reason to believe that Mr Harparit Singh would repeat this and disregard his licence conditions.
30. The Sub-Committee accepted that there was no evidence produced to suggest that underage sales would occur if the licence were granted and was advised by case law which instructs Licensing Authorities not to take into account the perception of what may happen at a premises. However, it was persuaded by the concerns of Surrey Police and Surrey Trading Standards that these premises needed a strong hand to ensure that the youths who had been attracted in the past because they were able to obtain alcohol easily, would not succeed in this premises.
31. The Sub-Committee noted that Mr Harparit Singh would be happy to accept conditions on the licence relating to the requirements to keep a refusals book, to use till prompts and that staff receive accredited training in the Licensing Act 2003.
32. The Sub-Committee therefore considers on the basis of the evidence that it has heard and the findings of fact that it has made, that in order to advance the licensing objectives for these premises, consideration needs to be given to: -
  - the Prevention of Crime and Disorder and
  - the Protection of Children from Harm.

### **Decision**

33. For the reasons stated above, the Sub-Committee confirms that the application for the premises licence be granted, subject to modification by addition of conditions and in accordance with the hours stated in the application.
34. The Sub-Committee confirms that the conditions to be imposed on the licence including those agreed between the parties at the hearing and in addition to the applicant's operating schedule, are as follows:

### **The prevention of crime and disorder**

1. All staff working at the premises will undertake accredited training in relation to the Licensing Act 2003 within three months of the grant of this license or within three months of working/serving at the premises. Written

evidence of such training should be displayed at the premises and provided to responsible authorities on request.

2. Prior to member(s) of staff acquiring the training under condition 1 above such person(s) shall not be authorised by a personal licence holder to serve alcohol unless supervised by a person who has been trained to the satisfaction of Spelthorne Borough Council's Licensing Manager.
3. Digital CCTV and appropriate recording equipment is installed, operational and maintained throughout the premises internally and to also cover the vicinity of the premises.
4. At all times when the premises is open there will be one member of staff on the premises who is trained and competent in the operation of the CCTV system including being able to produce copies of images on demand by Police.
5. Any failures of the CCTV system will be reported to Surrey Police and Spelthorne Borough Council as soon as practicable and in any case within 24 hours of their occurrence. In case the CCTV system fails, it is to be repaired as soon as is practicable.
6. CCTV images will be stored for 30 days and the staff will give full and immediate co-operation and technical assistance to the Police in the event that CCTV images are requested for the prevention and detection of suspected or alleged crime. The CCTV images will be copied onto CD/DVD by staff and handed to Police when requested.

### **The protection of children from harm**

7. The staff at the premises are to use an ultraviolet light on every occasion they are presented with identification documents to ensure that any such documents produced by customers are genuine.
8. The premises is to have a refusals book where all refusals of sales of alcohol are recorded. Such refusal book shall give dates, times and brief description of the person attempting to purchase the goods (height, build, distinctive clothing etc.). The refusals books shall be available for inspection on demand at all times by the responsible authorities.
9. An electronic point of sale system will be used to remind staff to check the customer's age before a sale of alcohol is made.
10. Every person working / serving in the premises must have a sufficiently competent level of English language skills in order to effectively question purchasers so that they are satisfied that they are over 18 years of age.

## **Informatives**

35. The Sub-Committee would also encourage the applicant to attend an approved DPS course in addition to his personal licence qualification. This is not required to be a condition of the licence.
36. The Sub-Committee has considered the conditions proposed on the operating schedule some of which duplicate legislation; these shall be removed. The Sub-Committee also considers that the condition proposed on the operating schedule which states 'Care given to youths gathering outside the premises with request to disperse in a polite manner if (the youths) are becoming unruly', is unenforceable as a condition and therefore should be removed. However, the Sub-Committee is encouraged that this is the policy of the applicant.

## **Conclusions**

37. That is the decision of the Sub-Committee. You have the right to appeal against this decision to the Magistrates Court within 21 days of receipt of the decision notice.

Cllr Robin Sider - Chairman  
Cllr Mrs Christine Bannister  
Cllr Tony Harman

Date of Decision: 29 September 2011  
Date of Issue: 5 October 2011