



## **LICENSING ACT 2003**

### **Application for the variation of a Premises Licence Decision Record**

**APPLICANT:** Puran Giri

**PREMISES:** Empire - The Kings Centre, High Street,  
Aldershot

**DATE OF HEARING:** 25th November, 2021

**MEMBERS SITTING:** Cllrs Sue Carter, Christine Guinness and  
Jacqui Vosper (Chairman)

## DECISION

To refuse the application.

The Sub-Committee considered that, on a balance of probabilities, the conditions should remain as they were necessary for the promotion of the licensing objectives, namely the prevention of crime and disorder, ensuring public safety and the prevention of public nuisance.

## REASONS

The Sub-Committee considered an application made under section 34 of the Licensing Act 2003 for a variation of the premises licence to remove conditions (23), (24), (25) and (26) from Annex 2 which relates to capacity, alcohol times, entertainment times and the requirement for ticketed entry for specific events.

**In coming to its decision, the Sub Committee has taken into account:**

- The Licensing Act s.35, which states that, having regard to the representations, it must take such steps as it considers appropriate for the promotion of the Licensing Objectives.
- The Secretary of State's Guidance issued under section 182 of the Licensing Act 2003, particularly:
  - Paragraph 1.17 which advises that each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy;
  - Paragraph 8.74 – 8.87 which outlines the full variations application process for a premises licence;
  - Paragraph 9.37 - 9.40 which states that the licensing authority must give appropriate weight to the steps that are appropriate to promote the licensing objectives, the representations and supporting information made by all parties, the Guidance of the Secretary of State and its own statement of licensing policy. Also that the licensing authority may refuse an application on the grounds that this is appropriate for the promotion of the licensing objectives; and
  - Paragraph 9.42 – 9.44 which states that all licensing decisions should be considered on a case by case basis and should take into account any representations or objections which have been received, and any representations made by the applicant.

- Rushmoor Borough Council's Statement of Licensing Policy and Guidance version 2 2018, particularly
  - The General Licensing Principles, paragraph 3.12, which states that the licensing authority will be objective in its determination, consider the promotion of the licensing objectives and focus on matters that are within the control of individual applicants, the premises where licensable activities are to be provided and the area in the vicinity of the premises concerned;
  - Paragraph 3.13 - 3.14 which covers Control of Third Parties;
  - Paragraph 8.5 – 8.16 regarding a full variation application of a relevant authorisation; and
  - Paragraph 18.45 – 18.48 which covers the weight attached to relevant representations.
- All the written representations and oral evidence presented at the hearing.

The Sub-Committee heard representations from the Licensing Officer on behalf of the Licensing Authority and from a representative who spoke on behalf of the Applicant. It also heard from a Police Officer speaking on behalf of Hampshire Constabulary who played a clip of body worn video footage. Finally, it heard representations from a member of the public.

A further member of the public, who did not attend the hearing, submitted written representations and these were also considered by the Sub-Committee.

All of the parties present and the Sub-Committee had the opportunity to ask questions of all other parties.

The Sub-Committee considered that the licensing objectives of the prevention of crime and disorder, public safety and public nuisance were engaged.

The Sub-Committee heard evidence that the premises had a history of anti-social behaviour, noise and disorder which is why the conditions had originally been imposed. Also, that they had been imposed in such a way as to ensure that the main bulk of their work was not impacted i.e. the banquets.

The Sub-Committee noted that, following receipt of the application to vary the premises licence, the Police had inspected the premises when the company was hosting two events under a Temporary Events Licence. The Sub-Committee heard that the smaller of the two events went ahead without incident however the second, larger event on 18 September 2021, resulted in Police attendance with various incidents

of anti-social and other concerning behaviours resulting from apparent excessive alcohol consumption.

The Sub-Committee was concerned to note that there had been cases of beers on the table in the premises which the Applicant denied in his meeting with the Licensing Authority and the Police previously but accepted at the hearing today. The Sub-Committee noted that the Police had to intervene on the evening in question to ensure that the premises stopped serving alcohol and to assist with the dispersal of the patrons, some of whom were violent and very much in drink. The Sub-Committee accepted that the Applicant was limited with regards to the behaviour of his patrons after they leave the premises but were concerned that excessive alcohol appeared to have been sold while at the event and felt that these issues could have been managed better if the staff had monitored the situation more closely.

Some of the members of the security company employed by the Applicant were seen on the body-worn footage played by the Police and the Sub-Committee was concerned to see that the security did not appear to be proactively assisting with dispersing the patrons.

The Sub-Committee noted that residents in the area were regularly disturbed by noise both inside and outside when large events were taking place, albeit they noted that no specific dates of events were provided. The Sub-Committee was encouraged to hear that the Applicant said he would look into the noise concerns within the property and what measures they may be able to implement to assist with noise emanating from the premises. The Sub-Committee was also encouraged by the suggestion that the applicant would follow up with the conduct of his security following his own concerns having viewed the body-worn footage at the hearing today.

The Sub-Committee heard that the Police had concerns with a number of the events recently held at the premises although noted that they had not sought to review the licence themselves and that this information had been provided as a result of the application to vary the premises licence.

Having considered the concerns raised in relation to the event held on the 18th September with a limit of 499 people in attendance on that occasion, the Sub-Committee was not satisfied that an event with a maximum limit of 800 people could be managed properly. The Sub-Committee therefore felt that removing condition (23), which restricts the capacity, would not promote the licensing objectives nor would the removal of conditions (24), (25) or (26) given the issues which arose at the event on 18th September, 2021. However, the Sub-Committee noted the Applicant's willingness to work with the licensing authority and the Police to address the concerns raised.

The Sub-Committee heard that the Applicant has had six TENS events since July 2021 and that he could have up to 12 per year with a maximum capacity of 499 people. Therefore, the Sub-Committee concluded that if the Applicant could use these TENS events to demonstrate that they would adequately address the concerns raised

at the hearing and can manage the venue responsibly, then they could choose to re-apply for a variation of the premises licence in the future and that application would also be considered on its merits. In the meantime, the Sub-Committee has refused this application in its entirety as to do so is appropriate for the promotion of the licensing objectives.

When seeking to address the concerns raised, the Sub-Committee suggests that the Applicant ensures that the issues raised at the hearing are taken up with the security company and that any briefing given to them prior to specific events is made available to the Police to check upon request, that the Applicant ensures that staff who are serving alcohol are properly trained, that boxes of alcohol are not sold to patrons in the future, that they carefully plan each event to include a consideration of how best to disperse patrons safely (and with the least amount of noise and disruption to the residents) and finally to consider the concerns raised about noise emanating from the premises.

**In coming to its decision, the Sub Committee has NOT taken into account:**

- The drink-driving offence outlined by the Police, which the Sub-Committee felt was beyond the direct control of the applicant.
- The Applicant's response when he was told about the drink-driving offence, which the Sub-Committee did not feel was relevant.
- The impact that Covid has had on the Applicant's business as the Sub-Committee did not feel that this was relevant to the application.

Interested Parties and Responsible Authorities may apply for a review of the licence in the future should there be any concerns about the operation of the licence.

The Applicant is reminded that failure to comply with a condition is a criminal offence.

Finally, all parties have a right of Appeal to the Magistrates' Court within 21 days of the date of this decision notice.