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**APPLICATION FOR THE GRANT OF A PREMISES LICENCE: "THOROUGHGOODS" 77
PENDAS WAY, STANKS, LEEDS, LS15 8HU**

On the 9th March 2009 the Licensing Sub-Committee heard an application brought by Mr. N. Patel, 77 Pendas Way, Crossgates, Leeds, LS15 8HU for the grant of a premises licence in respect of the premises known as "Thorougoods" 77 Pendas Way, Leeds, LS17 8HU.

The applicant sought the following:

Proposed Licensable Activities

M Supply of Alcohol

Proposed Hours of Licensable Activities

Everyday 06:00 hours to 23:00 hours

Proposed Designated Premises Supervisor

Mrs. Usha Patel.

This letter represents the formal decision of the Sub-Committee in respect of the application.

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Preliminary Procedural Issues

The Sub-Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made. The Sub-Committee agreed that the procedure for the hearing would not be varied. The Sub-Committee then decided to exclude the public from that part of the meeting where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing that Sub-Committee had considered the Licensing Officers report which included a copy of the application as submitted. The report also included written representations received from Mr. and Mrs. Hey, Professor E. Judge on behalf of Crossgates Watch Residents Association, Councillor S. Armitage on behalf of local residents, David and Angela Rhodes, E.G. Wright, James Streak, Mrs. Atkinson-Fett, P and J Mulherin, Freda Nowell, Mary and Frank Seaman, Patricia Beaumont, Maria Adams and Karen Gibbs.

The Sub-Committee then went on to consider the application

The Hearing

The following interested parties attended the hearing:

- Mr. N. Patel, applicant
- Ms. Gill Sherratt, representing the applicant
- Councillor. S. Armitage

In determining the application the Sub-Committee took into account any written submissions from the responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the parties prior to the hearing.

After considering the evidence and submissions the Sub-Committee would need to satisfy itself that granting the premises licence would promote the licensing objectives.

In reaching its decision, the Sub-Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the council's own Licensing Policy.

In particular the Sub-Committee took into account Sections 17 & 18 of the Act because these were the most relevant to the application and Chapter 2 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety.

The Sub-Committee then went on to consider the following sections of the Licensing Policy as the Sub-Committee took the view that these paragraphs had a bearing on the applications:

- Section 6 General Principles
- Section 12 Promotion of the Licensing Objectives

Objectors

Councillor Armitage informed Members that she was present to represent members of the local community which included Crossgates Watch Residents Association, Mr. and Mrs.

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Rhodes, Mr. Streak, Mr. and Mrs. Berry and other local residents who wished to remain anonymous. There were at least six off-licences within three quarters of a mile of the premises which included Pendas Way Local Store which was only 150 yards from the premises. Many of the local residents felt that the current number of premises selling alcohol was enough and a premises which would be open to 23:00 hours was not required.

If the premises licence was granted there would be an increase level of noise and disturbance from the car park with the noise of doors slamming and loud radios playing. Local residents were already regularly cleaning their gardens due to the litter which included cans and bottled from their gardens which would increase if the premises licence was granted.

There was an issue in the area of underage drinking and youths congregating which often intimidated local residents. The youths congregated and moved between the two parades of shops in the area accessing them by an alleyway. Those who congregated in the area were attracted by the light and those going into the shops who could help them to purchase alcohol. The residents near the alleyway were often intimidated by these youths during the evening and elderly residents were intimidated by the groups of youths throughout the day and night.

The shops in the area were often used by the pupils of John Smeaton High School and Councillor Armitage was of the opinion that allowing the grant of the premises licence could encourage them to purchase alcohol. Local residents and local councillors had worked closely with the police to try to remedy to problems experienced in the area. Many of those who purchased alcohol and congregated in the area used the nearby park and there were problems with drugs and drinking in the park. Residents were 'fed up' and tired of having to ask the youths to be quiet. The police were aware of the situation in the area however there were not enough officers to move the youths all of the time.

The Councillor urged the Sub-Committee to refuse the application in order to promote all four of the Licensing objectives. In relation to crime and disorder some of the local residents had damage caused to their property such as greenhouses being smashed which Councillor Armitage felt would increase if another off licence was to open. Health and safety and public nuisance would be undermined with increased litter and local residents feeling intimidated by youths congregating. Finally the protection of children from harm would be undermined by allowing more licensable premises to open which could increase the amount of alcohol available to children.

The following issues were addressed in questions:

- In general other licensed premises in the area opened between 8:30 hours and 21:00 hours however there was a store on Austhorpe Road which closed at 23:00 hours.
- Up to 50 youths could congregate at any time and they would move into the park after 21:00 hours.
- Councillor Armitage had been advised that the police had intended to comment on the application however the application for the premises licence was sent to Millgarth and did not filter down to the local Inspector in sufficient time for him to make a representation.
- The police had previously asked local licensed premises to close earlier than they had intended to in order to ease the problems in the area.
- There was another premises 150 yards away which sold alcohol. Councillor Armitage was of the opinion that it was unacceptable to have two premises of a similar nature

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that close together. However Councillor Armitage did recognise that the number of similar premises in the area was not something which the Sub-Committee could take into consideration when making their decision.

- Through the Chair Ms. Sherratt asked Councillor Armitage whether she felt that Mr. Patel was an upright citizen. Councillor Armitage stated that she had not said that Mr. Patel was not an upright citizen.

Applicant

As there were no other objectors present or outstanding representation from responsible authorities the Sub-Committee then considered the representations made on behalf of the applicant by Ms. Gill Sherratt, licensing consultant for the applicant. Ms. Sherratt informed the Sub-Committee that the applicant had sought the hours 06:00 to 23:00 as these were the usual hours of operation for licensed premises. The applicant had requested to be able to sell alcohol at 06:00 hours and the section 182 Guidance advised that stores should be able to carry out their licensable activities for the hours that they were open to the public.

Conditions to the premises licence had been volunteered in order to promote the licensing objectives. The premises would operate a Challenge 21 policy which was a national standard and would protect children from harm. The store was to be fully refurbished with new CCTV and the counter would also be moved to a position to ensure that children would be able to access their premises purchase what they wanted and leave without accessing alcohol. The applicant and the DPS also had a number of years experience running premises.

Ms. Sherratt informed the Sub-Committee that she was employed by one company which owned the brand of 'Bargain Booze' and 'Thorougoods'. The support available to the applicant was second to none. Training was offered by the company and the applicant had to attend regular monthly franchise meetings. The premises in question was a family business and both the applicant and the DPS had full personal licences and had received the appropriate training (certificates were available for Members to inspect). The applicant had held a premises licence for the past 15 years and had a fantastic relationship with local residents and police. Mr. Patel actually lived in a flat above the premises with his family.

Ms. Sherratt had noted that the Sub-Committee was aware that they could not refuse the application on the basis of need for another licensed premise in the area. In relation to anti-social behaviour Councillor Armitage had put forward to the Sub-Committee the problems which she said had occurred in the area. Ms. Sherratt stated that these were matters for the police to deal with and not someone trying to run their premises properly. Members attention was brought to R (Daniel Thwaites PLC) v. Wirral Borough Magistrate's Court and Others (2008) (the Thwaites case) which had ruled that any decision must be based on evidence and not speculation on what might happen. There was no evidence to support altering the premises licence application. The Licensing Act 2003 advised that local authorities should apply a 'light touch' to the consideration of premises licences as there was a mechanism to Review the premises licence. Mr. and Mrs. Patel did not want to create problems as they lived there and also had a family. The Thwaites case had also criticised the Magistrates for not putting enough weight on the evidence submitted by the police. The police, who were given 28 days to make a representation, had not made a representation against the application and it was probable that this was due to the fact that they had no issue with the store. In relation to the protection of children from harm the Local Safeguarding Children's Board and Trading

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Standards had been notified of the application for the premises licence and neither bodies had submitted an objection to the application.

The following issues were addressed in questions:

- The premises currently opened between 06:30 hours and 07:30 hours. Following the consideration of the premises licence the premises was to be completely refurbished and Mr. Patel was seeking to build up the business. Allowing the premises to be able to sell alcohol and open until 23:00 would give Mr. Patel the flexibility to open until late or close earlier depending on the demand. It was likely that the premises would not open until 23:00 hours but as the premise was to be refurbished the application to open and sell alcohol to 23:00 hours would give the applicant some flexibility.
- Mr. Patel had previously run a premises in Birmingham in a similar area to the where the current premises was.
- In relation to the ginnel at the rear of the premises Mr. Patel's shop was on a corner plot and cameras were to be installed at the rear of the premises. The ginnel was a private area where, in Mr. Patel's experience, there was not an issue of youths congregating. The ginnel was used by a neighbouring premises to deliver their takeaway food and was in regular use making it difficult for the youths to congregate.
- Ms. Sherratt reminded the Sub-Committee that Mr. Patel was only responsible for his shop and the immediate area around his premises. Whilst Mr. Patel acknowledged that the local community, which he was a member of, had to work together to manage the problems experienced in the area, there was no suggestion that any of the problems mentioned occurred outside his premises. Mr. Patel had offered to install CCTV at the rear of the premises which would discourage people from congregating there. At other hearings the Sub-Committees had considered conditions requiring the installation of gates however this was not appropriate in this instance as there were more premises which would have to be involved in that decision.
- The current condition which the applicant had proposed in relation to CCTV was that the system would cover the premises. The applicant was happy to add cameras to cover the rear of the premises. Members noted that the quality of the CCTV was important.
- The nearby takeaway was open and carried out deliveries until 00:00 hours. Ms. Sherratt reminded Members that the application was not in relation to the takeaway and that Mr. Patel could not be expected to answer questions in relation to that premises.
- There was an alarm system which was in place and a panic button was installed under the counter. There were always two people on the premises and Mr. Patel's son also helped out in the evenings after he had finished work.
- In reference to the police the legal adviser informed Members that there was a letter on the file dated 5th February 2009, which was before the deadline for submissions, from Pc. Dobson at Killingbeck Police station. The letter stated that the Officer had checked the police records and no representations would be made by the police in relation to the application. Pc. Dobson had also sought confirmation that CCTV and challenge 21 were conditions within the premises licence application.

The Decision

The Sub-Committee discussed the application in a closed session. Members noted the written submissions objecting to the application and the verbal representations made by Councillor Armitage on behalf of local residents. The representations made by the applicant

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and his representative in support of the application were also taken into consideration by the Sub-Committee.

After careful consideration the decision of the Sub-Committee was to grant the application in the following terms:

Licensable Activities

M Supply of Alcohol

Hours of Licensable Activities

Everyday 06:00 hours to 23:00 hours

Designated Premises Supervisor

Mrs. Usha Patel.

The grant of the premises licence was subject to the inclusion of the conditions volunteered in Box P of the application. The condition in relation to CCTV was amended to read:

‘The premises are covered by a suitable CCTV system. The System records and the data is retained for at least 28 days. The data will be made available to the authorities on request.’

The Sub-Committee was satisfied that the grant of the licence with the modified condition would promote the licensing objectives, was in line with the Council’s own Licensing Policy and the provisions of the Licensing Act 2003.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Yours sincerely

Laura Pilgrim
Governance Services Officer