

THAMES VALLEY POLICE

Division/Station : Reading Licensing Dept

From : PC 5787 Simon Wheeler

To : West Berkshire Council Licensing Dept

Ref : Application for DPS Change

Date : 22 October 2018

Tel.No.

Subject :

Mr Mouadjul Miah re Miah's Pangbourne, Reading, RG8 7LY

To whom it may concern

I PC Simon Wheeler on behalf of the Chief Officer of Police for Thames Valley wish to object to the change of Designated Premises Supervisor (DPS) in relation to premises licence 014279 Miah's Pangbourne to Mr Mouadjul Miah.

Under Section 37 (5) of the Licensing Act 2003 Thames Valley Police believe that due to the exceptional circumstances surrounding this application we are satisfied that the designation of Mr Mouadjul Miah as the premises supervisor under the premises licence would undermine the crime prevention objective.

37 Application to vary licence to specify individual as premises supervisor

(1) The holder of a premises licence may—

(a) if the licence authorises the supply of alcohol, or
(b) if he has applied under section 34 to vary the licence so that it authorises such supplies, apply to vary the licence so as to specify the individual named in the application ("the proposed individual") as the premises supervisor.

(2) Subsection (1) is subject to regulations under—

(a) section 54 (form etc. of applications etc.);
(b) section 55 (fees to accompany applications etc.).

(3) An application under this section must also be accompanied by—

(a) a form of consent in the prescribed form given by the proposed individual, and
(b) the premises licence (or the appropriate part of that licence) or, if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).

(4) Notice of an application under this section must be given

(a) to the chief officer of police for the police area (or each police area) in which the premises are situated, and

(b) to the designated premises supervisor (if there is one),

and that notice must state whether the application is one to which section 38 applies.

4A) Notice under subsection (4) (a) is to be given by—

(a) the relevant licensing authority, in a case where the holder of the premises licence submitted the application to the relevant licensing authority by means of a relevant electronic facility;
(b) the holder of the premises licence, in any other case.

(4B) Notice under subsection (4) (b) is to be given by the holder of the premises licence.

(5) Where a chief officer of police notified under subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.

(6) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (4).

The current Section 182 Secretary of States guidance states the following at para 4.39, 4.40 and 4.41

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 gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

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 as 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.

The Sub-Committee must be aware that currently review proceedings have been instigated by The Home Office Immigration Enforcement Team, with supportive representations from Thames Valley Police in relation to the employment of illegal workers within this premises as well as a host of breaches of licensing conditions.

Also a transfer request has been made by the current Premises Licence Holder (PLH) Mr Jamshed Miah to transfer the Premises Licence into this same individual (Mr Mouadjul Miah) whom is his son. This has also been objected to by Thames Valley Police on the grounds of the exceptional circumstances brought about by the direct links between them which on the balance of probability are likely to undermine the licensing objectives.

Thames Valley Police believe that due to the exceptional circumstances of this case which draw from the recent proceedings against this premises and the direct links between the current applicant and the premises licence holder that this provides sufficient “exceptional concerns” to support our objection.

Thames Valley Police believe that to allow Mr Mouadjul Miah as an applicant to become the Designated premises Supervisor (specifically at this premises) with its recent history and ongoing concerns will likely undermine the crime prevention objective.

As stated by Justice Jay within the East Lindsey District Council V Abu Hanif appeal:

“the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.”

The Licensing Objectives are therefore prospective and preventative, and as such we submit that in order to ensure that the licensing objectives are upheld with specific regard to the prevention of crime and disorder that this application should be refused.



PC 5787 Simon Wheeler