

## LICENSING SUB COMMITTEE

6 March 2023

Present: Councillor R Wenham (Chair)  
Councillors S Feldman and M Hofman

Also present: Stewart Gibson, Applicant's Representative  
Srithas Sundralingham, Applicant  
Jo Tomkins, Hertfordshire Constabulary  
Sgt. Dave Elgy, Hertfordshire Constabulary  
Liam Fitzgerald, Watford Borough Council, Interested Party  
Zoe Brunt, Watford Borough Council  
James Karithi, member of the public

Officers: Senior Licensing Officer (AY)  
Senior Solicitor  
Senior Democratic Services Officer  
Democratic Services Manager

### 7 **Committee membership/ election of a Chair**

The Democratic Services Manager confirmed that the sub-committee would comprise Councillors Feldman, Hofman and Wenham.

The sub-committee was asked to elect a Chair for the hearing.

RESOLVED –

that Councillor Wenham be elected Chair for this hearing.

### 8 **Disclosure of interests (if any)**

There were no disclosures of interest.

### 9 **Application for a new premises license - DKSR 164 Whippendell Road, Watford WD18 7NB**

The Chair, Councillor Wenham, welcomed everyone to the meeting and asked all present to introduce themselves.

The Chair invited the Senior Licensing Officer to introduce the report.

The Senior Licensing Officer advised that there were no preliminary matters for members' attention.

### **Introduction to the application**

The sub-committee received a report from the Senior Licensing Officer, which outlined an application that had been made by Srithas Sundralingham for a new premises licence for DKSR, located at 164 Whippendell Road, Watford, WD18 7NB.

The application sought a licence for off-sales of alcohol between the hours of 10:00 and 23:00 from Monday to Sunday. The premises did not currently have a licence.

Two representations had been received: from Hertfordshire Constabulary in their role as responsible authority and Liam Fitzgerald of Watford Borough Council. The officer advised that the report contained a factual outline of the previous history of the premises. However, he advised members that the previous decision was not for debate at this meeting, but they should make their decision based on the evidence presented at this hearing. He reminded members that it was preferable to make a decision the same day, otherwise it needed to be made within five working days of the meeting.

There were no questions for the Senior Licensing Officer.

### **Representations**

The Chair invited Jo Tomkins of Hertfordshire Constabulary to present the representation on behalf of the Police.

Jo Tomkins informed the sub-committee that Hertfordshire Constabulary wished to object to the new premises licence for DKSR. The premises had a long history of issues, which started in 2010. The premises licence was revoked following a breach. She outlined the issues that had led to the revocation and the appeals was lost. At a later date a further application was made and this was refused. Anti-social behaviour had reduced whilst the premises was not licensed. A licence was granted in 2012 to Miss Sundralingham, which included 20 conditions. This licence was reviewed in 2013 following breaches. However, before the hearing was held the licence was surrendered. The Police met the current applicant and his daughter in 2018 when they wished to submit a new licence application. There was no evidence to show the situation had changed. This application was withdrawn. An incident then occurred whilst the premises did not hold a licence for the sale of alcohol. However due to an error message on the CCTV the case could not be proven in order to take the matter further. A

new application was then submitted in 2021 which was refused. She was concerned that if a new premises licence was granted the licensing objectives would be undermined. The Police had worked hard to manage the premises in the past, but it had been irresponsibly operated.

The applicant's representative had no questions for Hertfordshire Constabulary's Senior Licensing Officer.

Members then posed questions to the officer about the applicant's behaviour over the previous years.

The officer responded that there had been several breaches which made her question the applicant's ability to run a licensed premises. If a premises licence were to be granted training would have to be part of the agreement. She had major concerns which were based on previous conduct, but she would be interested in asking the applicant some questions.

In response to a question about anti-social behaviour and its links to sales, the officer explained that alcohol had been sold to known street-drinkers. This had caused problems for local residents. She acknowledged there were several licensed premises in the local area. These premises worked with the Police to ensure alcohol was not sold to street-drinkers. They understood their obligations. Since the premises had not held a premises licence, she was not aware or had evidence that any alcohol had been sold from the shop.

There were no questions from the council's Senior Licensing Officer.

The Senior Solicitor noted the officer's comment about training. She asked whether there had been any evidence this had taken place. Jo Tomkins responded that if the application were granted then the applicant should re-sit the personal licence course; this would ensure the basics were covered. She advised that the objection was based on the applicant's previous history and reiterated that if granted then he should undergo training.

The Chair invited Liam Fitzgerald to set out the details of his representation.

Mr Fitzgerald informed the sub-committee that, when he was part of the community safety team, he had worked with the applicant in 2003 when the Licensing Act 2003 had been introduced. He was concerned that the applicant had an ignorance of the objectives. He acknowledged the applicant had a right to make an application, but he needed to consider what was right for the town. He felt there was a danger that if granted something else could happen and if there was a licensing breach it may be considered that the council had failed its community. He commented that he knew the premises very well and the

incidents his colleague had outlined. He needed to consider if anything had changed. When the applicant was in charge there seemed to be a lack of control. He was also concerned with the applicant's dealings with the Police and council officers.

The Applicant's representative had no question for Mr Fitzgerald.

Members were then invited to put their questions. In response to a question about the amount of time spent dealing with this particular premises in comparison to others, the officer advised that this premises stood out due to the reported behaviour. Officers would provide guidance, advice and then warnings but the behaviour continued. There were very vulnerable people close by, but they were exploited by the weakness of the premises licence holder, who would sell alcohol to them. This was a very conservative area. The issues were not the same since the licence had been revoked. He provided members with examples of the breaches that had occurred previously.

The council's Senior Licensing Officer and Senior Solicitor had no questions for Mr Fitzgerald.

### **Address by the Applicant**

Mr Gibson informed the sub-committee that firstly he would put forward the application and then comment on the representations.

Mr Gibson reminded members that the Senior Licensing Officer had advised them that each application should be considered on its own merits. He commented that the representations all referred to the previous history of the premises.

Mr Gibson stated that the first licence had been granted in 2006 and had run for four years without any trouble. In 2010 the licence was revoked. No one was able to state that the applicant had made the sales. However, the applicant was responsible for staff and their training. Since March 2013 the premises had not had a licence.

With regard to the current application, Mr Gibson noted that other than the Police no other responsible authority had submitted a representation and one could only assume they supported the application. He advised members that, in accordance with government guidance, representations should be based on evidence. There had been very little evidence presented to the sub-committee. The submissions had been very emotive. He referred members to policy LP4 regarding licensing times within residential areas.

Mr Gibson informed the sub-committee that the applicant had sold tobacco and lottery tickets, also age restricted purchases, with no problems. From the information heard at the meeting it could imply that the applicant did not comply with the rules. The applicant first held a premises licence in 2006. He undertook the training again in March 2017. He had not held a licence since 2010 and therefore had not been able to demonstrate his knowledge. Mr Gibson considered there was a strong case for Mr Sundralingham to be able to prove he could run a licensed premises.

Mr Gibson referred to the evidence provided by Mr Fitzgerald. He commented that it was misleading as the premises licence had been revoked only once. In 2013 the licence had been surrendered before it could be heard at a committee. He added that the applicant had attended mediation with the Police and had pleaded to be granted a licence. The applicant had advised that he had learnt his lesson. He referred to the comments about the CCTV not working. However, as there was no licence in place, it was not required and therefore no licence conditions existed.

Mr Gibson referred to the concerns of Mr Fitzgerald, particularly public safety and children. He commented that there was no evidence that the premises had caused any public nuisance that had led to anti-social behaviour. There were numerous other premises in the area. He believed there were still street-drinkers in the area, and questioned where they were purchasing alcohol. He again stressed there was no evidence to support the strong words said by Mr Fitzgerald. He reminded members that the applicant had sold tobacco and lottery tickets without incident. He was surprised the council had not done test purchases for tobacco sales. Members were hearing the applicant was a rogue; this was not true. If the sub-committee were to give the applicant a premises licence he would re-do the training. He would also ensure other key staff were personal licence holders. These could be put forward as conditions.

Mr Gibson finished by stating that the applicant did not deny that mistakes had been made and he regretted the past. The applicant was trying to make a living. The alcohol helped as customers would purchase other items at the same time. The applicant was aware that if anything went wrong he could face prosecution. He should be given the chance to prove he could do it.

Members were invited to put their questions to the applicant and his representative.

In response to a question from Councillor Feldman about future sales, Mr Gibson responded that the applicant had been punished for his mistakes. He was prepared to re-do the training and ensure any other staff employed held a

personal licence. Currently the applicant ran it on his own. If he was not in the premises then it was closed.

Councillor Feldman enquired about the CCTV in the premises and it being shared with others and if it could be overseen by someone else. Mr Gibson advised that a condition had been included in the proposed application that the CCTV should be working. If the licence was granted then alcohol could not be sold until the CCTV was operational. It would be made available to licencing officers and the Police.

Following a question about underage sales, Mr Sundralingham could not remember the reason it had happened in the past. He stressed he would not sell to anyone underage anymore. Mr Gibson added that the applicant did not deny it had happened. He was deeply sorry for the past errors. Mistakes were made 13 years ago. Over the last 10 years he had shown that he was able to run age related sales purchases.

It was noted that the surrendered licence had been in the name of Mr Sundralingham's daughter. Mr Gibson advised that Mr Sundralingham had not been working in the premises at the time. Prior to the licence being surrendered alcohol had been for sale. The stock seen in the premises after the surrender was old stock waiting to be cleared. Mr Fitzgerald commented that alcohol had still been on display and had been contrary to the Licensing Act. He added that the bar codes on the stock did not correspond to the information that they were old.

In response to a question from Councillor Hofman about knowledge of the local area and respecting neighbours, Mr Sundralingham responded that he had no problem with the local area.

Following a short adjournment members continued to question the applicant.

Following a range of questions from Councillor Feldman about age related sale of alcohol, Mr Sundralingham informed members that he would ask to see photo ID to check ages and would ask everyone. In response to a question about identifying someone drunk or with mental health issues, Mr Sundralingham said he would look at their body language.

The Chair, Councillor Wenham, asked the applicant several questions. Mr Sundralingham confirmed he was the only one working in the shop at the present time. The CCTV was working and his children had helped him. He showed the members his mobile phone where it was possible to view the current footage. Finally, he said that he was confident there would be no problems in the future.

The Chair invited Jo Tomkins to question the applicant.

In response to Ms Tomkins request to name the four licensing objectives, Mr Sundralingham stated them. Ms Tomkins felt that the applicant had read the objectives from the document in front of him.

She then asked him to explain Challenge 21. Mr Sundralingham said he would ask people for identification and if they did not have any there would be no sale. He would require photo ID. He showed the meeting his refusal book. He confirmed that 21 referred to the age of someone.

In response to further questions from Ms Tomkins about conditions and laws or offences about selling alcohol to children, Mr Sundralingham responded that there were the licensing objectives and controls for people. There were so many changes.

The Chair then invited Mr Fitzgerald to ask questions.

Mr Fitzgerald informed the sub-committee that Watford Borough Council did not carry out test sales; this was the responsibility of Trading Standards. As the chair of the Joint Advisory Group, the other representatives had been happy for him to proceed with a representation against this application.

Mr Fitzgerald stated that he would ask the applicant the same question as he had put at the last meeting. He asked the applicant to explain the difference between no alcohol and low alcohol drinks. In addition the definition of "ABV". Mr Sundralingham said that one had low alcohol and the other none. There was 0% alcohol in non-alcohol drinks.

The Chair then invited the council's Senior Licensing Officer to put his questions to the applicant.

The Senior Licensing Officer confirmed that at the time the licence was surrendered Miss Sundralingham had been the licence holder. The officer noted that Mr Sundralingham had said he would be the only person working at the premises. He asked if there would be any cover arrangements if he was ill or on holiday.

Mr Gibson responded on the applicant's behalf and advised that the applicant would be the only person working at the premises and it would have to be closed. He could not afford any staff. If the licence was granted, he would be able to employ another person.

In response the officer suggested that more than one licence holder could be added as a condition. He asked if the applicant's representative had any thoughts about potential wording, for example "If more than one member of staff working at the premises there will be two personal licence holders on the premises."

Following a question about additional training, Mr Gibson advised that the applicant would do the training again. He would produce evidence that he had the latest certificate before the licence was issued.

The officer then referred to the CCTV and a possible condition that a person conversant with the CCTV would be on the premises at all times. Mr Sundralingham would undergo further training with the support of his children.

Mr Gibson confirmed that the applicant had undergone full training on CCTV and able to download images. He had shown it was available on his phone. This could be covered by a condition.

Following some discussion it was noted that the council should be given access to the CCTV footage on request. It was not usual for the council to have access to a private system.

The Senior Solicitor had no questions for the applicant.

The Chair invited each party to sum up.

Mr Fitzgerald considered the applicant to be too much of a risk. There had been nothing new at the hearing to give him hope for the future. It had been difficult to get answers from the applicant. There was the evidence from previous breaches. Nothing at the meeting had changed his opinion about the applicant.

Jo Tomkins said that based on what had been said, heard and asked at the hearing of Mr Sundralingham, she did not believe the licensing objectives would be met.

Mr Gibson spoke on behalf of the applicant. He said that members could see how much this application meant to Mr Sundralingham. He was trying to make his business work. Communication could be difficult, including explaining information. He would undertake the course again. The last time he had been involved in the sale of alcohol was 2010. In 2013 he had not been working at the premises. In his opinion the applicant deserved an opportunity. He had recognised his errors.



The Chair thanked everyone for their contributions. He advised that the sub-committee would now retire to consider its decision. The decision would be communicated within five working days.

## **Decision**

RESOLVED –

The sub-committee has found that the licensing objectives of prevention of crime and disorder, the prevention of public nuisance, prevention of public safety and protection of children from harm are relevant to this application.

The sub-committee has read all the information before them. The sub-committee heard from the Police, Mr Liam Fitzgerald (The council's Community Safety Manager), Mr Stewart Gibson, the applicant's representative and the applicant, Mr Srithas Sundralingham.

At the hearing, the sub-committee heard historical evidence from the Police on visits and enforcement actions in respect of this premises. The premises is located within the Sensitive Licensing Area of Whippendell Road between its junction with Cassio Road and Hagden Lane, an area that had suffered greatly with street drinkers and anti-social behaviour. They heard information of a number of historical incidents involving the premises during the period it was previously licensed.

The Police were of the opinion that if the application was granted, it would be detrimental to policing in Watford and to the local community. The granting of a licence would impact on the wider community in terms of increased anti-social behaviour, crime and disorder. The sub-committee heard that this would place a huge pressure on policing and Police resources.

Mr Liam Fitzgerald gave evidence of the historical breaches in respect of the premises. He stated there had been a dramatic reduction on anti-social behaviour related street drinker activity in this location since the removal of the Premises licence. He was of the opinion that there was no evidence from the applicant to show an understanding of the licensing objectives and he still had the same concerns about the responsibility and management of the premises.

In determining the application, the sub-committee was mindful that the concern here is to be confident on the balance of probabilities that the licensing objectives of the prevention of crime and disorder, protection of children from harm, the prevention of public nuisance, and public safety will be safeguarded and promoted if the application was granted.

The sub-committee has decided therefore not to grant the application for the premises licence. The reasoning behind the decision is, the applicant has failed to show a clear understanding of the licensing legislation and the requirements of licensing. The applicant showed a concerning lack of ability to answer the questions put to him by the sub-committee. He failed to recognise the gravity of what having a licence would mean under the Licensing Act. The applicant was unable to answer questions on the meaning of ABV, the difference between the levels of alcohol. He was unable to clearly explain how he would implement challenge 21. He showed a total lack of understanding of the local area, the identification of vulnerable people and consequences of selling alcohol in this area. The sub-committee is of the view that if the application is granted, the licensing objectives would be undermined.

The sub-committee is aware of and took into account any implications that may arise from the Human Rights Act 1998.

The sub-committee had due regard for its public sector equality duty under section 149 of the Equality Act 2010 and considers that in reaching a decision members have fulfilled their duty under the Equality Act 2010.

In reaching the decision the sub-committee had due regard to all that they have read, seen, and heard, along with consideration for the licensing objectives, the Licensing Act 2003, s182 Guidance, and the Council's statement of licensing policy.

Chair  
Licensing Sub-Committee

The meeting started at 10.30 a.m., adjourned at 11.45 a.m.,  
Reconvened at 11.50 a.m. and finished at 12.25 p.m.