

REGULATORY COMMITTEE

At a meeting of the Regulatory Committee on Wednesday, 18 February 2009 in the Council Chamber, Runcorn Town Hall

Present: Councillors Philbin (Chairman), Wallace (Vice-Chairman), Bryant, D. Inch, A. Lowe, Murray, E. Ratcliffe and Wainwright

Apologies for Absence: Councillors Drakeley, Howard and Wharton

Absence declared on Council business: None

Officers present: K. Cleary and J. Tully

Also in attendance: Four Members of the Public

ITEMS DEALT WITH UNDER DUTIES EXERCISABLE BY THE COMMITTEE

REG28 APPLICATION TO VARY DESIGNATED PREMISES SUPERVISOR AT THE DOCKSIDE INN 27 SOUTH ROAD WESTON POINT

Action

The Committee considered an application to vary the Designated Premises Supervisor ("DPS") at the Dockside Inn, 27 South Road, Weston Point, Runcorn.

The applicant Angela Yee Love Yu and the proposed DPS Alison Watson were represented by June Clarke of JMC Licensing Consultants. The Police who made representation to the application were represented by Ian Seville, Police Licensing Officer.

At the hearing Ian Seville called Sgt Chris Byrne to expand on the evidence submitted to the applicant and the Committee.

After explaining the procedure to be adopted at the hearing the Legal Advisor stated that the application was to vary the DPS at the Dockside Inn, Weston Point, under Section 37 Licensing Act 2003. The application included a request that the variation have immediate interim effect.

The Chief Officer of Police had notified the Council

that “the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective”. The hearing was held to consider that notice. There was a duty on the Committee under Section 39(3) of the 2003 Act, “having regard to the notice, [to] reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.”

Before the Police representative was asked to address the Committee the Legal Officer made the following statements regarding the Police Objection set out in Appendix A of the Committee Report:

Regarding paragraph 1: The police were asked to include in their submission a comment on how two visits to the premises 10 months apart could constitute “frequently”. [The police later confirmed that the first visit on 9th February 2008 was not relevant to the case].

Regarding paragraphs 1, 2, 3, and 4: all references to “the applicant” were in error. The applicant was Angela YU. However, it was clear to all that the Police were referring to Alison WATSON and the hearing would continue on that basis.

Regarding paragraph 2: The Police were asked to confirm that references to “subsequent police visits” were to those on 21st December 2008 and 9th January 2009. [The police later confirmed that this was correct].

Regarding paragraph 2: the statement that “the venue has been trading during this time in breach of the mandatory condition that requires a DPS” was incorrect. Until 9th January 2009 Penny HOUGHTON was the DPS.

Regarding paragraph 5: the whole of this paragraph was irrelevant to the case and must not be taken into account.

To assist in understanding the sequence of events the Legal Officer gave the following additional information to the Committee:

- Alison WATSON had been granted a personal licence on 7th January 2009;
- Penny HOUGHTON ceased to be the DPS on Friday 9th January 2009 (at 4.35 PM) and had asked for her section 41 notice to be backdated to 17th October 2008 (this request having been refused as being contrary to the 2003 Act); and

- The application to vary the DPS was made on 12th January 2009.

The police put forward their case in support of their notice of objection. The representative of the applicant then put forward her case in support of the application. The applicant admitted that she had been acting as "DPS" in error since October 2008 for which she apologised. However, the applicant gave evidence that at the police visit on 21st December 2008 the premises was only being used for a private staff Christmas party and at the police visit on 31st January 2009 she was off duty and simply meeting with friends at the premises. The applicant denied that she was drunk on either occasion. The applicant's evidence was disputed by the police.

The Committee asked a number of questions of the parties and retired to consider the matter.

RESOLVED: That having considered the notice from the police (and all other relevant considerations) the Committee resolved that the application be rejected and that the reasons for the rejection of the application be set out below.

The Committee found that it was necessary for the promotion of the crime prevention objective to reject the application and consequently was under a duty to do so by virtue of section 39(3) Licensing Act 2003.

Meeting ended at 9.15 a.m.