

BARNSELY METROPOLITAN BOROUGH COUNCIL

**Report of the Principal
Officer (Licensing) to the
meeting of the Statutory
Licensing Regulatory Board
Sub Committee to be held
on the 5th June 2023**

LICENSING ACT 2003

APPLICATION TO VARY A PREMISES LICENCE

Darfield Supersave, 2 Garden Street, Darfield, Barnsley

1. Background

- 1.1 Mr Rajaram has held the current premises licence for Darfield Supersave, 2 Garden Street, Darfield, Barnsley, since the April 2022. A copy of the current licence is attached as appendix 1 to the report.
- 1.2 On 13th January 2023, a complete variation application under the provisions of the Licensing Act 2003 was received for, Darfield Supersave, 2 Garden Street, Darfield, Barnsley. A copy of the variation application is attached as Appendix 2.
- 1.2 Members are requested to determine the application for a variation to the existing premises licence.
- 1.3 The premises is situated on Garden Street in Darfield and is surrounded by a variety of local amenities including retail and residential premises.

2 Application to Vary the Premises Licence

- 2.1 The premises licence variation application requests the licence to take effect as soon as possible and requests the following licensable activities:

a) Supply of Alcohol

Monday to Sunday 00:00 – 23:59

3 Promotion of Licensing Objectives

3.1 The applicant has described the steps he intends to take to promote the four licensing objectives, and states these as follows: -

General – all four licensing objectives: -

When considering this application, we have reviewed the current operating hours and procedures that are in place to promote the licensing objectives - which we understand are currently working well. Additionally, we have considered the licensing policy of Barnsley Metropolitan Council, the guidance issued under S182 of the Licensing Act 2003, have made due diligence checks with the relevant responsible authorities and have undertaken research with regards to population demographics and Home Office crime mapping.

As a consequence the intention is to add the following conditions in order to promote the licensing objectives.

The Prevention of Crime and Disorder:-

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/supply of alcohol occurs. Equipment MUST be maintained in good working order , be correctly time and date stamped , recordings MUST be kept in date order, numbered sequentially and kept for a period of 28 days and handed to Police on demand.

The Premises Licence Holder must ensure at all times the Designated Premises Supervisor (DPS) or appointed member of staff is capable and competent at downloading CCTV footage in recordable media format. CCTV download and access will be provided to an authorised local authority Trading Standards Officer or the Local Authority within 48 hours

of being requested or on demand in the event of a serious incident as defined by a senior police officer of the rank of at least Police Inspector. The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number '101' immediately.

2. An incident log must be kept at the premises. Incident log records will be retained for a period of 12 months from the date it occurred. It will be made immediately available on request to an 'authorised person' (as defined by Section 13 of the Licensing Act 2003), an authorised local authority Trading Standards Officer or the Police, which must record the following:

- (a) all crimes (relevant to the licensing objectives) reported to the venue
- (b) any complaints (relevant to the licensing objectives) received
- (c) any faults in the CCTV system or searching equipment or scanning equipment
- (d) any refusal of the sale of alcohol
- (e) any visit by a relevant authority or emergency service

3. All staff engaged in the sale of alcohol to be trained in Responsible Alcohol Retailing to the minimum standard of BIIAB Level 1 or any other training recognised and agreed with the local authority Trading Standards. (All existing staff shall be trained within one month of the date that this condition appears on this licence).

All new staff shall be trained within one month of taking up employment. All staff shall be re-trained twelve monthly thereafter. Training records shall be kept on the premises which shall show the name of the training course attended, the date of the training, the name of the person

undertaking the training and shall be produced to the police, an authorised local authority Trading Standards Officer or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.

Training will cover the following matters as a minimum:

Conflict resolution

Selling alcohol to under age person

Selling to drunks

The sale of all other age restricted goods offered for sale at the premises.

4. There will be no public access to the premises by any customer after 23:00hrs every day, and all sales of goods will be via a window service until 05:00hrs thereafter.

Public Safety: -

1. All staff shall wear clothing which identifies them as members of staff of the premises.
2. All electrical wiring and distribution systems shall be tested at least once a year and signed off by a competent person whose name is shown within the Local Authority Building Control Part P Competent Persons Register (<http://www.competentperson.co.uk/search.asp>). The sign off certificate shall be produced to an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or Police on demand.

The Prevention of Public Nuisance: -

1. Noise or vibration shall not emanate from the premises so as to cause a nuisance.
2. The premises licence holder will display notices which are prominent, clear and legible (in not less than 32 font bold), advising the public not to consume any alcohol purchased from the premises at or near to the premises.
3. Between 23:00 and 05:00hrs when the premises is actually open for licensable activities, the premises licence holder will provide a litter bin at the front of the premises and will undertake a 'litter pick' at least every 2

hours. The 'litter pick' will be restricted to any footpath or open space area immediately to the front of the premises.

The Protection of Children from Harm: -

1. The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises.

The policy shall be produced on demand of an 'authorised person' (as defined by Section 13 of the Licensing Act 2003), an authorised Trading Standards Officer or the police.

Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location where alcohol is displayed and offered for sale.

4 Responsible Authorities

4.1 During the 28-day consultation period, one representation was received from South Yorkshire Police as a Responsible Authority under the provisions of the Licensing Act 2003. South Yorkshire Police formally object to the variation of the premises licence for Darfield Supersave under the licensing objectives of: -

The Prevention of Crime and Disorder

Public Safety

The reasons given that - **The premise failed a test purchase operation in October 2022, when visited by the Licencing Enforcement Officer, the premise was put on an action plan until the end of 2023, further visits will be made to ensure all breaches have been rectified. We therefore, have no confidence at this moment in time that the applicant will operate appropriately, the applicant is working towards the completion of the said action plan as a result the granting of additional hour at this time would be inappropriate.**

Our concerns extend to the proposed 24hrs opening given the proximity to residential premises, and as a compromise we have offered an extension to midnight to bring the premise in line with other premises in the neighbourhood should the applicant accept the changes we would with draw our objection.

A copy of the formal objection and the current action plan is attached as appendix 3.

4.3 On behalf of Darfield Road Supersave, Mr Semper has requested the inclusion of information provided by e-mail from Environmental Health Officer Adam Cattell. A copy of the e-mail correspondence is attached as appendix 4.

4.4 No other representations have been received from Responsible Authorities in this matter.

5 Interested Parties

5.1 Following publication of the statutory notice of the application for the premises licence in the local press and the display of notices at the premises, no representations have been received from interested parties.

5.4 Under the provisions of the Licensing Act 2003, representations can be made from Interested Parties who live or have any interest in a business that is located within the vicinity of the premises where the application has been made. In this case the interested parties reside close to, if not within the immediate vicinity of the licensed premises.

6 Compatibility with the European Convention on Human Rights

The decision of the Board will amount to a determination of the Council and the rights of the applicant. Therefore, as far as it is possible to do so, the board must comply with the requirements of Article 6 (the right to a fair trial). This means the applicant should be afforded the right to make oral representations at the meeting.

It is important to note that the Statutory Licensing Panel can only base its decision in relation to licence applications on evidence that relates to one or more of the licensing objectives, and not speculation.

The Authority will examine the potential for harm and if it is satisfied that this is real, then it may take sufficient measures to prevent this harm from occurring. This principle has been approved by the High Court, in the case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (6 May 2008). This High Court case also established the principle that regulation by a local Licensing Authority should be a 'light touch', and that conditions should be attached to licences only so far as is necessary to promote the licensing objectives.

If Members determine to refuse the application, it is necessary for the reasons to be clearly stated.

7 Financial Implications

Not applicable.

8 List of Appendices

Appendix 1 - Current premises licence

Appendix 2 – Application to vary the premises licence

Appendix 3 – Formal Objection received from SYP and current Action Plan

Appendix 4 – E-mail correspondence from Nick Semper

Officer Contact: D Bailey Tel: 07786525961 Date: 19th May 2023