



Leicester
City Council

Minutes of the Meeting of the
LICENSING (HEARINGS) SUB-COMMITTEE

Held: FRIDAY, 30 APRIL 2021 at 4:00 pm

P R E S E N T:

Councillor Singh Johal (Chair)

Councillor Fonseca

Councillor Dr Moore

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104. APPOINTMENT OF CHAIR

Councillor Singh Johal was elected as Chair for the meeting.

It was noted that the hearing of the application was held virtually in accordance with the Local Authorities and Police and Crime Panels (Coronavirus)(Flexibility of Local Authority and Police and Crime Panel Meetings)(England and Wales)(Regulations) 2020 (the 2020 Regulations) and in accordance with the Council's own Remote Procedure Rules.

105. APOLOGIES FOR ABSENCE

There were no apologies for absence.

106. DECLARATIONS OF INTEREST

There were no declarations of interest.

107. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the Licensing Hearing held on 14 April 2021 be confirmed as a correct record.

108. APPLICATION TO TRANSFER AN EXISTING PREMISES LICENCE HOLDER AND VARY THE DESIGNATED PREMISES SUPERVISOR: UNI, 39 WESTERN BOULEVARD, LEICESTER, LE2 7HN

The Chair led on introductions and confirmed with the Sub-Committee Members that reports for the meeting had been read.

The Director of Neighbourhood and Environmental Services submitted a report on an application to transfer an existing premises licence and vary the designated premises supervisor (DPS) for application for Uni, 39 Western Boulevard, Leicester, LE2 7HN.

Members noted that a representation had been received, which necessitated the application had to be considered by the Sub-Committee.

Mr Sheakha Sharif Najhat was present with a representative Mr Sajid Munir (Solicitor). PC Jeff Pritchard (Leicestershire Police) was present. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application. It was noted that a representation was received on 12 April 2021 from Leicestershire Police on the grounds of the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. The Police were concerned that it was not a genuine transfer application and was an attempt to mislead the police and licensing authority to believe a new applicant was involved in the business and would not repeat the previous failings as highlighted in the review hearing on 29 March 2021.

PC Pritchard addressed the Sub-Committee indicating that the Police representation was on the sole ground of the prevention of crime and disorder. He was given the opportunity to outline the reasons for the representation and answered questions from Members and the applicant's representative.

Mr Najhat and Mr Munir were given the opportunity to respond to the representation from the Police and answered questions from Members, the Police, the Licensing Team Manager (Policy and Applications) and Legal Adviser to the Sub-Committee.

All parties were given the opportunity to sum up their positions and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making a decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision.

In reaching their decision, the Sub-Committee felt they should deliberate in private on the basis that this was in the public interest and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair announced that the decisions and reasons would be publicly

announced and confirmed in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Chair then asked all but the Members of the Sub-Committee and Democratic Support Officers to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Legal Adviser to the Sub-Committee was called back to the meeting to give advice on the wording of the decision.

RESOLVED:

That the application to transfer an existing Premises Licence and vary the Designated Premises Supervisor (DPS) for Uni, 39 Western Boulevard, Leicester, LE2 7HN be REFUSED.

In reaching their decision the Sub-Committee Members had carefully considered the Committee report presented by the Licensing Team Manager (Policy and Applications) and the representations made by Leicestershire Police. The Members had also considered the representations made by the applicant Mr Sheakha Sharif Najhat, his representative Mr Sajid Munir, and the legal advice given to them during the hearing. The Sub-Committee Members had taken account of the Statutory Guidance, the Regulators' Code and the Council's Licensing Policy.

The Sub-Committee was asked to consider an application made by Mr Najhat for the transfer to him of the Premises Licence for Uni, who also sought variation of the Licence to specify him as the DPS.

Members heard the Premises Licence was initially granted in May 2012 and had been transferred several times since 2014. Mr Nawzad Sharif-Nazhad held the Licence from February 2020 and was the DPS at the time of a Review Hearing on 29 March 2021 at which a decision was made to revoke the Licence. That decision was made because Mr Nazhad had, despite warnings from the Police, breached the Premises Licence conditions, had failed to retain CCTV footage for the required period under the Licence of 31 days, and had permitted an employee to sell alcohol to customers when the employee did not hold a Personal Licence, that being a condition of the Premise Licence. At the Hearing, it was heard that approximately 114 packets of illegal cigarettes had been found on a shelf under the till at the premises on 29 January 2021. Mr Nazhad had admitted ownership of the cigarettes which had clearly been available for sale. There were also concerns that Mr Nazhad and an employee had on one occasion failed to wear face coverings inside the shop, which in the ongoing Coronavirus pandemic potentially put customers' safety at risk. The Sub-Committee accepted the Police representations on 29 March 2021 and its decision was that it was appropriate for the promotion of the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm to revoke the Premises Licence. The revocation had yet to take effect as Mr Nazhad appealed the decision to the Leicester Magistrates' Court. Members were informed by Mr Munir, on behalf of

Mr Najhat, that in the event the transfer application was successful, Mr Nazhad would withdraw the appeal before the Magistrates.

The transfer application made by Mr Najhat was submitted on 9 April 2021 with a request for it to have immediate effect, so since that date, Mr Najhat has been the Licence holder and the DPS.

The Police opposed the application for the transfer of Premises Licence and variation of DPS. They noted that Mr Najhat and Mr Nazhad were cousins, and suspected Mr Nazhad would continue to be involved in the business if the transfer of the Licence was granted as Mr Najhat had other business interests which would take him away from Uni premises. The Premises Licence required that all sales of alcohol should be made by the holder of a Personal Licence, and as Mr Nazhad held a Personal Licence, the Police believed he was likely to continue to be involved in the business in some capacity.

During the Hearing the Police specifically referred to the fact that Mr Najhat and Mr Nazhad had used the same mobile telephone number during their contact with the Police. In addition, it was reported that during a telephone conversation with PC Pritchard on 1 February 2021, Mr Najhat in seeking to assist Mr Nazhad when he still held the Premises Licence, asked PC Pritchard to allow Mr Nazhad an additional two weeks to ensure that all sales of alcohol were made by the holder of a Personal Licence. When PC Pritchard enquired "Are you asking me to turn a blind eye for two weeks?", he indicated Mr Najhat replied "Yes".

Members heard that the Police did not believe the transfer application was genuine, but rather believed it was an attempt to mislead them and the Licensing Authority to believe a new applicant was involved in the business who would not repeat the previous failings at the premises.

In response Mr Najhat told Members he had held a Personal Licence since 2015. Although he had previously worked in a friend's shop, he had not otherwise made use of the Premises Licence. His other business interest was a Barber shop which he would continue to operate as he has staff who worked for him.

Mr Nazhad confirmed that he had spoken with PC Pritchard on 1 February 2021 and had explained to him that he was in isolation/ quarantine at the time because he had tested positive for Coronavirus. He denied asking the Officer 'to turn a blind eye' to the breach of the Premise Licence condition regarding the sale of alcohol but agreed that he had asked the Officer to allow Mr Nazhad a further one or two weeks to resolve the issue.

The meeting heard that since the transfer of the Premises Licence to him on 9 April 2021, Mr Najhat had not employed any new staff for Uni. Rather, Mr Najhat indicated that Mr Nazhad had been helping at the premises. Mr Najhat was waiting for his brother to obtain a Personal Licence so that he would then be able to help him. In due course, the intention was that the tenancy of the Uni premises, currently held by Mr Nazhad, would be transferred to Mr Najhat. Mr

Najhat indicated that he was now in charge at the Uni and that he was responsible for everything.

Members were reminded that the Licensing Act 2003 and the Statutory Guidance clearly envisaged that objections by the Police in those situations would be rare and would only be made in exceptional circumstances. The Statutory Guidance refers to “truly exceptional circumstances” and “genuinely exceptional circumstances”.

Members were required to consider only the licensing objective of the prevention of crime.

Members accepted that where a decision was made to revoke a Premises Licence, it did not automatically follow that a business must close or that the former Licence holder had to remove himself from the business and it might not be unusual in those circumstances for the business owner to seek to transfer the Licence, or not be unusual for them to want to transfer the Licence to a family member whom they trusted.

Members had considered the matter on its individual merits and accepted the Police representation that Mr Nazhad would continue to be involved in the premises. Mr Najhat did not dispute this in the short term. Members also believed that Mr Nazhad would continue to control or influence the business. No evidence had been presented to the contrary. Mr Nazhad currently remained involved at the premises and no new staff member had been employed. The tenancy of the premises currently remained in Mr Nazhad's name. The Premises Licence was revoked on 29 March 2021 because of Mr Nazhad's actions and Members believed the criminal offending would be repeated if Mr Najhat's application was to be accepted.

Members were concerned by Mr Najhat's conversation with PC Pritchard on 1 February 2021. Although Mr Munir on behalf of Mr Najhat made the point that English was not Mr Najhat's first language, thereby raising the possibility of a misunderstanding, Mr Najhat separately confirmed that he had undertaken the required course and test for his Personal Licence in 2015 in English.

Although Mr Najhat denied asking PC Pritchard 'to turn a blind eye' to the breach of the Premise Licence condition regarding the sale of alcohol, he accepted that he had asked the Officer to allow Mr Nazhad further time to resolve the issue. In practical terms that effectively was the same thing. Mr Nazhad and Mr Najhat should have realised that the issue could only be resolved by ceasing the sale of alcohol when a Personal Licence holder was not available to undertake the sale.

Members therefore had no confidence that the criminal offending which led to the revocation of the Premises Licence would not be repeated.

In the circumstances, Members found that it was appropriate for the promotion of the licensing objective of the prevention of crime and disorder to refuse the application to transfer the Premises Licence and to refuse the application to

specify Mr Najhat as the designated supervisor.

Mr Najhat would be informed of his right to appeal to the Magistrates Court.

109. CLOSE OF MEETING

There being no other items of urgent business, the meeting closed at 5.45pm.