



Leicester
City Council

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

Held: MONDAY, 13 JUNE 2022 at 10:00 am

P R E S E N T:

Councillor Westley (Chair)

Councillor Fonseca

Councillor Dr Sangster

* * * * *

1. APPOINTMENT OF CHAIR

Councillor Westley was appointed as Chair for the meeting.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 16 May 2022 be confirmed as a correct record.

5. ANY OTHER URGENT BUSINESS

The Chair agreed to take the following items as urgent business to allow the applications to be considered within the statutory time periods.

- Application to Transfer an existing premises licence holder and vary the DPS: ABS Grocers, 126 Narborough Road, Leicester LE3 0BT.
- Application for a new premises licence: 26 Belvoir Street, Leicester.
- Application for a variation of an existing premises licence: Martin Bros, 117 Clarendon Park Road, Leicester.

6. PRIVATE SESSION

RESOLVED:

That the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act, and taking all the circumstances into account, it was considered that the public interest in maintaining the information as exempt outweighed the public interest in disclosing the information.

Paragraph 1

Information relating to an individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 7

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

B1) Application to transfer an existing premises licence holder and vary the DPS – ABS Grocers, 126 Narborough Road, Leicester.

7. APPLICATION TO TRANSFER AN EXISTING PREMISES LICENCE HOLDER AND VARY THE DPS - ABS GROCERS, 126 NARBOROUGH ROAD, LEICESTER LE3 0BT

The Director of Neighbourhood and Environmental Services submitted a report on an application to transfer an existing premises licence holder and vary the DPS, ABS Grocers 126 Narborough Road, Leicester LE3 0BT.

Mr Singh (Premises Licence Holder (PLH) / Designated Premises Supervisor (DPS) was present, accompanied by his Legal Representative, Mr Robert Sutherland (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.

A representation was received on 24th May 2022 from Leicestershire Police in relation to the prevention of crime and disorder.

Mr Singh and his legal representative Mr Sutherland were given the opportunity to address the Sub-Committee. Mr Sutherland set out an objection to the police representation on the grounds that the Police had failed to comply with the requirements of Section 42(6) Licensing Act 2003 and that there was no relevant representation before the Licensing Authority.

PC Pritchard was then given the opportunity to put forward the Police representation and respond to Mr Singh and his legal representative.

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 their decisions. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decisions.

In reaching their decisions, Members 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.

During private deliberation, the Sub-Committee called back the Legal Adviser to the Sub-Committee for further legal guidance.

RESOLVED:

Having heard the representations from both parties and having taken legal advice, the Sub-Committee Members accepted the argument put forward by Mr Singh's solicitor, that the Police had failed to comply with the requirements of Section 42(6) Licensing Act 2003 and as such there was no relevant representation before the Licensing Authority.

The Police were, through the Committee's Legal Adviser, given an opportunity to consider their legal position and if appropriate make an application for an adjournment. The Police declined to make an application to adjourn and wished the Sub-Committee to proceed on the basis of the oral submissions made during the hearing regarding exceptionality

The Sub-Committee concluded that without there being a relevant representation before it, it must follow that the application for a variation and application for a DPS transfer must be taken to have been granted within the time limits prescribed in the legislation.

8. PUBLIC SESSION

The meeting moved into public session.

9. APPLICATION FOR A NEW PREMISES LICENCE - 26 BELVOIR STREET, LEICESTER

The Director of Neighbourhood and Environmental Services submitted a report on an application for a new premises licence for 26 Belvoir Street, Leicester.

The applicants, Mr. Portertibey, Mr. Simmons, Mr. Soutney, and the applicant's solicitor, Ms. Gilligan, were 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 answered questions from Members. It was noted that a representation was received from the Licensing Enforcement team in objection to the application on 9th May 2022, on the grounds of the prevention of crime and disorder, the prevention of public nuisance, public safety, and the protection of children from harm. Further representations were received on 16th May 2022 from the Noise Team, on the grounds of the prevention of public nuisance.

A further three representations were made by local businesses on the grounds of the prevention of public nuisance.

The applicant had reached agreement with additional conditions with the Licensing Enforcement team, Noise team and three local businesses.

The applicants, Mr. Matthew Portertibey, Mr. Colin Simmons, Mr. Alistair Soutney, and the applicant's solicitor, Ms. Lisa Gilligan, were given the opportunity to outline the details of the application, answer questions from Members of the Sub-Committee, 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 their 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 full reasons for the decision 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 Members of the Sub-Committee and Democratic Support Officers to withdraw from the meeting. Members then deliberated in private to consider their decision.

In reaching their decision the Sub-Committee Members had carefully considered the written report presented by the Licensing Team Manager (Policy and Applications) and the conditions agreed with the objectors. The Members had also considered the representations made by the applicants, their representative, 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 recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

That the application for a new premises licence for 26 Belvoir Street, Leicester be GRANTED.

Conditions were agreed with the noise team, licensing enforcement team and local businesses, as outlined at Appendix B1-B5 to the report.

Members agreed it was appropriate for the promotion of the licensing objectives to approve the application subject to the conditions consistent with the operating schedule and the additional conditions agreed in the hearing with the PLH as follows:

- That the premises invite the Noise Enforcement officer prior to the launch of the premises to assess noise levels.

The applicant would be provided with the reasons for the decision in writing within five working days.

All parties would be advised of the right to appeal the decision to the Magistrates Court.

10. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE - MARTIN BROS, 117 CLARENDON PARK ROAD, LEICESTER

The Director of Neighbourhood and Environmental Services submitted a report on an application for the variation of an existing premises licence for Martin Bros, 117 Clarendon Park Road, Leicester.

The applicant, Mr Aaron Martin, was present with Mr Solanki, worker at Martin Bros Pizza Co. Mr Ian Brown, Friends of Clarendon Park, who had put forward representation was present. It was noted that Mr Brown would also be presenting Ms Sally William's representation on her behalf. 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 answered questions from Members. It was noted two representations were received in objection to the variation of a premises licence from two members of the public on 17th May 2022 on the grounds of the prevention of public nuisance.

Mr Ian Brown was given the opportunity to outline the details of the representations and answered questions from Members and the Licensing Team Manager.

Mr Martin and Mr Solanki were given the opportunity to present their case and answered questions from Members, the Licensing Team Manager and the Legal Advisor 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 their 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 full reasons for the decision 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 could be called back to give advice on the wording of the decision.

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

In reaching their decision the Sub-Committee Members had carefully considered the written report presented by the Licensing Team Manager (Policy and Applications) and the written and verbal representations made by members of the public. The Members had also considered the representations made by the PLH, Mr, Martin 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 recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

That the application for the variation of the premises licence be GRANTED.

Members agreed it was appropriate for the promotion of the licensing objective of the prevention of public nuisance, to approve the application subject to the conditions consistent with the operating schedule and the additional conditions agreed in the hearing with the PLH as follows:

- Any anti-social or disruptive behaviour will not be tolerated.
- Noise levels will be set to prevent break out of sound and vibration to neighbouring properties .
- Doors and windows will remain shut save for access and egress when regulated entertainment is taking place.
- Notices will be clearly sited advising customers to leave quietly and with respect to local residents.
- Crowds will be asked to disperse if formed in the vicinity of the premises.
- Provision of food or snacks on Sundays during extended hours.

The applicant would be provided with the reasons for the decision in writing within five working days.

All parties would be advised of the right to appeal the decision to the Magistrates Court.