



Leicester
City Council

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

Held: FRIDAY, 7 SEPTEMBER 2018 at 9:30 am

P R E S E N T:

Councillor Thomas (Chair)

Councillor Fonseca

Councillor Unsworth

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14. APPOINTMENT OF CHAIR

Councillor Thomas was elected as Chair for the meeting.

15. APOLOGIES FOR ABSENCE

There were no apologies for absence.

16. DECLARATIONS OF INTEREST

Members were asked to declare any disclosable pecuniary or other interest they may have in the business on the agenda.

There were no declarations of interest made.

17. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the Licensing (Hearings) Sub-Committee meeting held on 6 August 2018 be confirmed as a correct record.

18. APPLICATION FOR A NEW PREMISES LICENCE: PIZZA MAGIC, 130 FOSSE ROAD SOUTH, LEICESTER, LE3 0JT

The Director of Neighbourhood and Environmental Services submitted a report that required the Sub-Committee to determine an application for a new premises licence for Pizza Magic, 130 Fosse Road South, Leicester, LE3 0JT.

Members noted that representations had been received in respect of the application, which necessitated that the application had to be considered by

Members.

The meeting was delayed and commenced at 10.00am, following discussion by Members. It was noted that neither Mr A Mamozai nor Mr S Mosukhel were present at the meeting or represented.

Following advice from the Legal Adviser to the Sub-Committee, Members considered Regulation 20 of the Licensing Act 2003 (Hearings) Regulations 2005 and decided that it was in the public interest to proceed with the determination of the application for a new premises licence in the absence of the applicants on the basis that all parties had been given the opportunity to attend and no apologies or reasons for absence had been received directly from the applicants. The Committee were informed by the Chief Licensing Officer that one applicant had indicated that he could not attend but that his co-applicant and another male would attend the hearing. There had been communication from someone claiming to represent the applicants but this could not be verified with the applicants via known email addresses or telephone numbers. Due to the applicants' non-attendance the interpreter arranged for the meeting was released.

The Chief Licensing Officer and Legal Adviser to the Sub-Committee were present. Mr Nigel Rixon (Licensing Manager for Leicestershire Police), Robin Marston from the City Council's Noise and Pollution Team. It was noted that a member of the public was in the public gallery.

The Sub-Committee of its own motion and upon receiving legal advice directed that the public and press be excluded from the hearing during the police's representation, as it was likely that exempt information would be discussed.

RESOLVED:

that the press and public be excluded from the hearing during the representation from the police in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it was likely in view of the nature of the proceedings that exempt information would be disclosed as defined in Paragraphs detailed below of Part 1 of Schedule 12A of the Act, and taking all 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 7 – Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Introductions were made and the procedure for the meeting was outlined to those present.

The Chief Licensing Officer presented the report. It was noted that the person

claiming to represent the applicants had submitted additional information in the form of a single sided letter detailing permission for a representative to represent the applicants at the hearing, and letter in support of the application, which were circulated to the Sub-Committee and the parties present. In the circumstances, the Chief Licensing Officer advised the panel to give appropriate weight to those submissions.

It was noted that a representation had been received from the Noise and Pollution Control Team on 24 July 2018 on the grounds of the prevention of public nuisance, expressing concern that there would be an increased likelihood of noise disturbance and complaints about activities inside and outside the premises, customer activity and traffic movement.

It was further noted that a representation was received on 9 August 2018 from Leicestershire Police on the grounds of crime and disorder, public safety, public nuisance, and the protection of children from harm.

Mr Rixon asked for clarity on the application hours for licensable activity. It was noted that the application was for the provision of late night refreshment 23:00 to 04:00 hours Monday to Saturday, and 23:00 to midnight on Sunday. Opening hours were noted at 16:00 to 04:00 Monday to Saturday and 14:00 to 02:00 on Sunday.

The officer from the Noise and Pollution Control Team outlined the reasons for the representation and answered questions from the Sub-Committee. It was not known if the Noise and Pollution Control Team had had further contact with the applicant following the submission of the application for a new premises licence. Concern was raised over increased vehicle noise from takeaway drivers and delivery drivers, increased customer activity and noise outside the premises, and noise from a flue operating at early hours of the morning in a predominantly residential area. It was noted in the application that business would be 80% delivery and 20% collection by customers. The officer recommended that the application for the grant of a late night refreshment licence be refused.

The officer from the Noise and Pollution Control Team, and person in the public gallery then withdrew from the meeting.

IN PRIVATE SESSION

Mr Rixon for Leicestershire Police outlined the reasons for the representation and answered questions from the Sub-Committee. Part of the representation made was due to anticipated noise and the attraction of people from the night-time economy.

Mr Rixon was given the opportunity to sum up the position outlined in the representation and make any final comments.

IN OPEN SESSION

The officer from the Noise and Pollution Control Team, and person in the public gallery then returned to the meeting.

The officer from the Noise and Pollution Control Team was given the opportunity to sum up their position and make any final comments.

Prior to the Sub-Committee considering the application, the Legal Adviser to the Sub-Committee advised on the options available to them in making a decision, and 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 that basis that this was in the public interest and as such outweighed the public interest of their deliberation taking place with the parties represented being present.

The Chief Licensing Officer, Legal Adviser to the Sub-Committee, Mr Rixon from Leicestershire Police, officer from the Noise and Pollution Control Team, and person in the public gallery then withdrew from the meeting.

The Sub-Committee then gave the application full and detailed consideration.

The Legal Adviser to the Sub-Committee was recalled to the hearing to give advice on the wording of the decision.

The Chief Licensing Officer, Mr Rixon from Leicestershire Police, officer from the Noise and Pollution Control Team, and person in the public gallery then returned to the meeting.

The Chair informed all persons present that they had recalled the Solicitor to the Sub-Committee for advice on the wording of the decision.

RESOLVED:

That the application for a new premises licence for Pizza Magic, 130 Fosse Road South, Leicester, LE3 0JT be REFUSED.

REASON FOR THE DECISION

In reaching their decision, the Licensing Hearing Sub-Committee Members had carefully considered the committee report, the presentation by the legal officer, all representations submitted on behalf of the applicants, the representation from the Police and by the Noise Team, and the legal advice given during the hearing.

The Sub-Committee was asked to determine an application for a new premises licence at Pizza Magic, and when considering the matter, the licensing objectives were of paramount concern. The Sub-Committee had considered the case on its own merits and in accordance with the licensing authority's Statement of Licensing Policy and Guidance issued under Section 182 of the

Licensing Act 2003.

The application had been made jointly by Mr Attaulah Mamozai and Mr Sefat Mosukhel in accordance with Section 17 of the Licensing Act 2003.

Messrs Mamozai and Mosukhel wished to have a late night premises license between the hours of 23:00 and 04:00 Monday to Saturday, and 23:00 to Midnight on a Sunday. Representations received from the Police disclosed serious concerns, and the Noise Team had concerns about the impact of the business being open until the early hours of the morning in a predominantly residential area. The Members had considered each of the options available to them as outlined in the report.

The Sub-Committee, as a result of what they had heard, were satisfied that the representations by the Police and the Noise Team engaged each of the four licensing objectives, and were of the opinion the applicants had failed to demonstrate to the Sub-Committee that they would promote the licensing objectives, or indeed how they would manage the potential risk posed to the public, and for those reasons refused the application.

The Sub-Committee did not feel that any conditions which were justifiable and appropriate could be added to the license to negate concerns, and as a result they rejected the application.

The applicants would be informed they could appeal the decision within 21 days to the Magistrate's Court.

19. ANY OTHER URGENT BUSINESS

There being no other items of urgent business, the meeting closed at 11.20am.