



Leicester
City Council

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

Held: FRIDAY, 17 JANUARY 2020 at 9:30 am

P R E S E N T:

Councillor Singh Johal (Chair)

Councillor Cank

Councillor Dr Moore

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46. APPOINTMENT OF CHAIR

Councillor Singh-Johal was elected as Chair for the meeting.

47. APOLOGIES FOR ABSENCE

There were no apologies for absence.

48. DECLARATIONS OF INTEREST

Members were asked to disclose pecuniary or other interests they may have in the business on the agenda.

There were no declarations of interest made.

49. APPLICATION FOR A NEW PREMISES LICENCE WITHIN A CUMULATIVE IMPACT ZONE: MASSAWA ERITREAN AND ETHIOPIAN RESTAURANT, 41-43 CHURCHGATE, LEICESTER, LE1 3AL

The Director of Neighbourhood and Environmental Services submitted a report requiring the Sub-Committee to determine an application for a new premises licence within a Cumulative Impact Zone for Massawa Eritrean and Ethiopian Restaurant, 41-43 Churchgate, Leicester, LE1 3AL.

The Sub-Committee noted that a representation had been received in respect of this application which necessitated that the application had to be considered by Members.

The applicants Mrs Freweyni Michel and Mr Yonas Hedgu together with Mr

Romi Kanuja and an interpreter, Mr Danniell Makele were present. Mr David Braithwaite (Assistant Licensing Manager, Leicestershire Police), PC Jeff Pritchard (Licensing Officer, Leicestershire Police), the Licensing Team Manager (Policy and Applications), and Legal Adviser to the Sub-Committee were also present.

The Licensing Manager (Policy and Applications) presented the report and outlined details of the application. It was noted that a representation had been received from Leicestershire Police on 10 December 2019 which related to all four licensing objectives, namely 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 the applicants had failed to address how they would reduce their footprint within the established Cumulative Impact Zone.

Mr Braithwaite and PC Pritchard from Leicestershire Police were given the opportunity to outline the reasons for the representation and responded to questions from the Sub-Committee. The Police were concerned about how the premises would manage passing night time economy trade and how it would meet the licensing objectives.

Mrs Michel outlined the reasons for the application, and answered questions from Members and the Police.

All parties were then 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 the parties represented present.

Mrs Michel and Mr Hedgu, Mr Kanuja, Mr Makele. Mr Braithwaite, PC Jeff Pritchard, the Licensing Team Manager and Legal Adviser to the Sub-Committee 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 meeting to advise Members on the wording of their decision.

Mrs Michel and Mr Hedgu, Mr Kanuja, Mr Makele. Mr Braithwaite, PC Jeff Pritchard and the Licensing Team Manager then returned to the meeting.

RESOLVED:

That the application for a new premises licence within a cumulative impact zone for Massawa Eritrean and Ethiopian Restaurant, 41-43 Churchgate, Leicester, LE1 3AL be GRANTED subject to the conditions consistent with the operating schedule and the following additional conditions.

ADDITIONAL CONDITIONS

- Alcohol must not be supplied to any person unless they are customers of the restaurant and have purchased food from the restaurant
- No customers shall be allowed to enter the premises after 11pm on any day
- The premises must close at 11pm Sunday-Thursday with last-orders for alcohol at 10:30pm.
- The premises must close at 12pm on Friday and Saturday
- The premises must close at 1am on 25 December and 1 January with no new customers admitted after 11pm on 24 December and 31 December respectively.
- The supply of alcohol shall cease 30 minutes prior to closing to the public.
- No drinks purchased on the premises shall be removed from the premises.
- Customers shall not be permitted to smoke to the front of the premises, including after 9pm.
- External CCTV shall be installed to cover the front of the premises, including the entrance
- CCTV shall be made available to the responsible authorities within a reasonable time period on being requested.
- A 'Challenge 21' accredited scheme shall be adopted at the premises.
- A refusal log/incident log is to be maintained and kept on the premises and be made available to the relevant authorities upon a request being made.
- Training shall be given to staff about the 'Challenge 21' scheme and the four licensing objectives. Training shall be updated every 12 months and the training record is to remain on the premises and made available upon a request.
- No persons under the age of 18 years shall be permitted to remain on the premises after 10pm.

REASON FOR DECISION:

In reaching their decision, members of the Sub-Committee carefully considered the committee report presented by the Licensing Manager (Policy and Applications), all representations submitted on behalf of the applicants, the representations from the Police and the legal advice given during the hearing.

The Sub-Committee had been asked to determine an application for a new premises licence at 41-43 Churchgate which was in the Churchgate Cumulative Impact Zone. When considering this application, the licensing objectives were of paramount concern. The Sub-Committee considered the application on its own merits and in accordance with the licensing authority's statement of licensing policy and guidance issued under Section 28 of the Licensing Act 2003. Of particular focus was the Licensing Authority's special policy regarding cumulative impact zones.

The application had been made by Mrs Michel and Mr Hedgu in accordance with Section 17 of the Licensing Act 2003.

The licensable activities which were the subject of this application are set out in paragraph 5.2 of the Licensing Manager's report to the Sub-Committee.

Representation had been received from the Police who stated that the application engaged all four of the licensing objectives and that granting the application would go against the Licensing Authority's special policy where the presumption is that applications for new premises licences will be refused.

The Police claimed that granting the application would add to the existing problems in the Cumulative Impact Zone in that the business would be operating during the busy night time economy and would add to the problem of saturation. The premises would provide a further outlet for people to consume alcohol and the premises could have a negative impact on the area if it was not managed correctly.

The Sub-Committee fully considered the issues raised by the representations but having heard from the applicants they were satisfied that granting the licence to appropriate conditions would not add to the existing problems of cumulative impact in the area. In reaching this decision the Sub-Committee had taken account of the consultation which had taken place between the Police and the applicants and noted that very little crime had been recorded in the area over the last six months.

50. APPLICATION TO TRANSFER AN EXISTING PREMISES LICENCE AND TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR, EFES MANGAL, 26-36 BRAUNSTONE GATE, LEICESTER, LE3 5LG

The hearing then moved into private session for the following item under paragraphs 1, 2 and 7 of the Local Government Act 1972.

The Director of neighbourhood and Environmental Services submitted a report requiring the Sub-Committee to determine an application to transfer an existing premises licence and to vary a premises license to specify an individual as designated premises supervisor for Efes Mangal, 26-36 Braunstone Gate, Leicester, LE3 5LD.

The Sub-Committee noted that a representation had been received in respect of this application which necessitated that the application had to be considered by Members.

The applicant, Mr Omed Ganawy-Bean did not attend. Mr David Braithwaite (Assistant Licensing Manager, Leicestershire Police), the Licensing Team Manager (Policy and Applications), and Legal Adviser to the Sub-Committee were present.

The Sub-Committee were informed by the Licensing Team Manager (Policy and Applications) that no communication had been received from the applicant regarding his non-attendance. In light of the applicant's non-attendance and in the absence of any application to adjourn the Sub-Committee decided to proceed with the hearing.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application. It was noted that a representation had been received from Leicestershire Police on 16 December 2019 from Leicestershire Police in relation to the prevention of crime and disorder.

Mr Braithwaite was given the opportunity to outline the reasons for the representation and responded to questions from the Sub-Committee.

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 the parties represented present.

Mr Braithwaite, the Licensing Team Manager and Legal Adviser to the Sub-Committee 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 meeting to advise Members on the wording of their decision.

Mr Braithwaite, the Licensing Team Manager and Legal Adviser to the Sub-Committee then returned to the meeting.

RESOLVED:

That the application to transfer an existing premises licence and to vary a premises licence to specify an individual as Designated Premises Supervisor for Efes Mangal, 26-36 Braunstone Gate, Leicester, LE3 5LD be REFUSED.

REASON FOR THE DECISION:

In reaching their decision the Members of the Sub-Committee carefully considered the committee report presented by the Licensing Manager (Policy and Applications), all representations made by Leicestershire Police in support of their objections, the written representations and information submitted by the applicant, and the legal advice given during the hearing.

When considering this application, the Crime Prevention Objective was the only objective which was relevant. The Sub-Committee considered this application 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.

In exceptional circumstances the Police can oppose the applications to transfer if they believe that the grant would undermine the Crime Prevention Objective.

The Sub-Committee confirmed that they had not taken anything put before them on face value and they had examined the available information carefully. Objections of this nature rarely came before the Sub-Committee, and it was found that in this case the objection to the application by the police had been properly made. The Sub-Committee had considered the details of the incident which occurred on 27 October 2019 and read the explanation given to them by the applicant. Having evaluated all of the information the Sub-Committee had concluded that the application to transfer should not be granted as it would not promote the licensing objective relating to the prevention of crime and disorder. The Sub-Committee were unconvinced with the information put forward by the applicant which consequently led them to having no confidence in the applicant's ability to uphold the Crime Prevention Objective.

51. ANY OTHER URGENT BUSINESS

There being no other urgent business the meeting closed at 12:29pm.