



Leicester
City Council

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

RESUMED: WEDNESDAY, 4 MARCH 2020 at 9:30 am from Wednesday 19th February 2020, whereupon the meeting was inquorate.

RESUMED: THURSDAY, 12 MARCH 2020 at 9:30 am from Wednesday 4th March 2020.

P R E S E N T:

Councillor Hunter (Chair)
Councillor Pickering (Vice Chair)

Councillor Fonseca

* * * * *

52. APPOINTMENT OF CHAIR

Councillor Hunter took the Chair for the resumed meeting.

53. APOLOGIES FOR ABSENCE

There were no apologies for absence.

54. DECLARATIONS OF INTEREST

Councillor Fonseca as Ward Councillor for the ward in which the premises at Appendix B, Shiv Shakti Pan Centre, 216 Green Lane Road, Leicester was located, declared for the avoidance of doubt that he knew PC Oleh who had inspected the premises, but he approached the application with an open mind.

55. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meetings held on 6th January 2020 and 17th January 2020 be confirmed as a correct record.

**56. APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE
FOR SHIV SHAKTI PAN CENTRE, 216 GREEN LANE ROAD, LEICESTER
LE5 4PA**

The Director of Neighbourhood and Environmental Services submitted a report that required the Sub-Committee to determine an application for a review of an existing premises licence for Shiv Shakti Pan Centre, 216 Green Lane Road, Leicester, LE5 4PA.

The Sub-Committee noted that an application for the review of the existing premises licence had been received which necessitated that the application had to be considered by Members.

Mr Rahul Keshvala the Premises Licence Holder (PLH) was present and accompanied by Ms Usha Keshvala (sister) and an Interpreter. Mr Dave Braithwaite (Police Assistant Licensing Manager, Leicestershire Police), Mr Nigel Rixon (Licensing Manager, Leicestershire Police), PC Ben Hill (Local Licensing Officer, Spinney Hills, Leicestershire Police) and Ms Liz Johnson (Food Safety Team, Leicester City Council), Licensing Team Manager (Policy and Applications) and Legal Adviser to the Sub-Committee were also present. Introductions were made and the procedure for the meeting was outlined to those present. Mr Keshvala was asked if he had a copy of the report to which he confirmed that he had.

The Licensing Team Manager (Policy and Applications) presented the report and outlined the details of the application. It was noted that an application for the review of a premises licence was received on 30th December 2019 from Leicestershire Police on the grounds of the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. The Police were concerned how the premises was being operated. It was further noted that a representation was received on 15th January 2020 from the Food Safety Team at Leicester City Council on the grounds of public safety. The Food Safety Team were concerned that the business failed to register as a new food business and following an inspection were found not to comply with food law requirements which demonstrated a disregard for regulatory requirements and public safety.

The Licensing Team Manager (Policy and Applications) had presented up to Section 10.1 in the report. The Legal Adviser to the Sub-Committee made reference to the fact the translator had not relayed any information presented from the report to Mr Keshvala, whereupon the translator stated Mr Keshvala did not have a copy of the report. Mr Keshvala was provided with a copy of the report. The Licensing Team Manager (Policy and Applications) explained that the applicant would have had a copy of the report sent to him, and that Mr Keshvala had attended two previous meetings which had been adjourned. The Chair explained the translator could go through the report with the applicant, but the offer was declined. The Licensing Team Manager (Policy and Applications) completed presentation of the report.

Mr Dave Braithwaite, Police Assistant Licensing Manager outlined the reasons for the objection, referring to additional information of incidents reported at the premises. Video footage of breaches was shown to those present at the meeting. Questions from Members and Mr Keshvala (through the translator) were answered by Mr Braithwaite and PC Hill.

Ms Liz Johnson, Food Safety Team, outlined the reasons for the representation and answered questions from Members.

Mr Keshvala through his interpreter was given the opportunity to respond to the objections and outlined reasons why he should retain the premises licence and answered questions from Members. Mr Keshvala informed the meeting that CCTV was working and an additional camera had been installed to the front of the property. He further informed the meeting that a double-glazed door had now been installed where there was once a curtain, which was kept locked to prevent people going to the rear of the property.

At this point of the meeting Councillor Fonseca, as Ward Councillor, declared for the avoidance of doubt that he knew PC Oleh referenced in the representation from 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 with the parties represented present.

Mr Keshvala, Ms Keshvala and Interpreter, Mr Braithwaite, Mr Nigel Rixon, PC Ben Hill, Ms Johnson, Licensing Team Manager (Policy and Applications) 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 Keshvala, Ms Keshvala and Interpreter, Mr Braithwaite, Mr Nigel Rixon, PC Ben Hill, Ms Johnson, and Licensing Team Manager (Policy and Applications) then returned to the meeting.

RESOLVED:

That the premises licence for Shiv Shakti Pan Centre, 216 Green Lane Road, Leicester be REVOKED.

The Sub-Committee had been asked to determine an application for a Review of a Premises Licence. In reaching their decision the Sub-Committee Members had carefully considered the Committee report, all representations made by Leicestershire Police and Leicester City Council's Food Safety Team in support

of the application for the review, representations made by the Premises Licence Holder, and the legal advice given to them during the hearing.

The Sub-Committee Members considered the licensing objectives to be of paramount concern and had considered the 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.

The Sub-Committee Members noted that the premises had a licence to operate and provide the supply of alcohol for consumption off the premises only.

Leicestershire Police had asked for the review of the premises licence after attending on a number of occasions, only to discover that alcohol was being consumed on the premises, despite previous warnings being given to the Premises Licence Holder.

The Sub-Committee heard that on the 7th November 2019, the Premises Licence Holder, Mr Rahul Keshvala pleaded guilty to an offence of carrying on an unauthorised licensable activity, contrary to Section 136 of the Licensing Act 2013 in that that he allowed the consumption of alcohol to take place on his premises. Despite this, it was noted that on the 6th January 2020 a Police Officer attended the premises and discovered again that alcohol was being consumed on the premises.

From the Premises Licence Holder, the Sub-Committee had heard a number of representations which were summarised as follows:

- The CCTV on the premises was now in good working order.
- A double-glazed door had now been installed where there was once a curtain, which was kept locked.

The Sub-Committee Members spent time scrutinising the evidence put before them in detail and had considered each of the options available to them. As a result of what they had heard they were satisfied that the representations by the Police and the Food Safety Team engaged with all of the licensing objectives namely:

- Public Safety
- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Protection of Children from Harm.

REASON FOR THE DECISION

The Sub-Committee Members stated that Mr Keshvala was unable to promote the licensing objectives as despite previous warnings and visits from the Police and Food Safety Team serious breaches had occurred over a long period of time. Members did not believe that any modification to the licence conditions which were justifiable and appropriate could be made to prevent the incidents complained of from happening again and as a result they

therefore revoked the premises licence.

Mr Keshvala was informed that he had 21 days to appeal to the Magistrates Court.

57. APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE FOR LOST BAR, 139A NARBOROUGH ROAD, LEICESTER LE3 0PB

The Director of Neighbourhood and Environmental Services submitted a report that required the Sub-Committee to determine an application for a review of an existing premises licence for Lost Bar, 139a Narborough Road, Leicester, LE3 0PB.

The Sub-Committee noted that an application for the review of the existing premises licence had been received which necessitated that the application had to be considered by Members.

Mr Julius Ephi, the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) was present with Mr Kevin Mabaya (Bar Manager). Mr Dave Braithwaite (Police Assistant Licensing Manager, Leicestershire Police), Mr Nigel Rixon (Licensing Manager, Leicestershire Police), PCSO Lorraine King were present accompanied by Ms Alison McCausland, local resident and police witness. The Licensing Team Manager (Policy and Applications) and Legal Adviser to the Sub-Committee and observing Solicitor for Leicester City Council were also present.

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

The Licensing Team Manager (Policy and Applications) presented the report and outlined the details of the application. It was noted that an application for the review of the existing premises licence was received on 31st December 2019 from Leicestershire Police on the grounds of the prevention of crime and disorder, public safety, and the prevention of public nuisance. The Police were concerned about reports of constant noise coming from the venue throughout the evening and into the early hours of the morning. In addition the premises were operating beyond their terminal hour and crimes / incidents had been recorded at the venue.

It was further noted that a representation was received on 14th January 2020 from a local resident. The representation related to the prevention of crime and disorder and the prevention of public nuisance. The resident was concerned that there was constant noise and music coming from the premises going into the early hours of the morning.

It was stated there was also a representation included in the report from a local resident who was not present at the meeting.

The Licensing Team Manager (Policy and Applications) informed the meeting that arrangements for delivery of additional information to Mr Ephi had been

made as it had transpired that Mr Ephi did not live at the address stated, so had not received the report or additional CCTV footage gained from the Police.

Mr Dave Braithwaite, Police Assistant Licensing Manager outlined the reasons for the objection, referring to additional information of incidents reported at the premises. Ms McCausland, local resident and police witness was invited to outline the reasons for her objection. CCTV footage of incidents outlined in the report was shown. Questions from Members were answered by Mr Braithwaite, PCSO King and Ms McCausland.

Mr Ephi was given the opportunity to respond to the objections and outlined reasons why he should retain the premises licence and answered questions from Members and the Police. Mr Ephi informed the meeting he had not read the most recent email sent to him regarding incidents recorded on 3rd March 2020 and 7th March 2020 as he had been busy and wanted to speak to the Bar Manager Mr Mabaya about them. Mr Ephi stated he had not been at the premises at the time the incidents highlighted in the Police submission. Mr Mabaya said he was deeply sorry for angst caused to the tenant, however, felt the need to distinguish what was Lost Bar business and those people on Narborough Road. Mr Ephi stated he had engaged with the Police and Licensing Officers at the Council and outlined what measures he intended to put in place to retain his licence.

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 with the parties represented present.

Mr Ephi, Mr Mabaya (Bar Manager), Mr Braithwaite, Mr Rixon, PCSO King, Ms McCausland, Licensing Team Manager (Policy and Applications), Legal Adviser to the Sub-Committee and observing Solicitor for Leicester City Council 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 Ephi, Mr Mabaya (Bar Manager), Mr Braithwaite, Mr Rixon, PCSO King, Ms McCausland, Licensing Team Manager (Policy and Applications), and observing Solicitor for Leicester City Council then returned to the meeting.

RESOLVED:

That the premises licence for Lost Bar, 139a Narborough Road, Leicester be REVOKED.

The Sub-Committee had been asked to determine an application for a Review of a Premises Licence. In reaching their decision the Sub-Committee Members had carefully considered the Committee report, all representations made by Leicestershire Police and a local resident in support of the application for the review, representations made by the Premises Licence Holder, and the legal advice given to them during the hearing.

The Sub-Committee Members considered the licensing objectives to be of paramount concern and had considered the 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.

Leicestershire Police had asked for the review of the premises licence following reports of constant noise coming from the venue, people congregating with drinks outside the premises who appeared to be drunk and causing a nuisance and disorder, that the premises was operating beyond its terminal hour and incidents that had been recorded at the venue. Ultimately, the Police had made the application as they did not believe that the Licensing Objectives were being upheld, in particular:

1. Prevention of Crime and Disorder
2. Public Safety
3. Prevention of Public Nuisance

The Sub-Committee noted the current operating hours of the premises and its location and that since June 2019 there had been a number of incidents that had taken place either inside the licensed premises or directly outside it. The Police had stated that the management of the premises was poor and the venue was not being run in an acceptable manner which in turn was causing issues within the local vicinity. They also stated that the owners and staff appeared to have no regard to either the licensing objectives or the licence conditions which had led to people living in the area to suffer with an unacceptable number of incidents at the premises.

The Licensing Sub-Committee also noted the representation received from a local resident who stated they had witnessed numerous incidents of antisocial behaviour, noise, violence and breaches of the premises licence both inside and directly outside the licenced premises.

From the Premises Licence Holder, the Sub-Committee had heard a number of representations which were summarised as follows:

- The Manager Mr Kevin Mabaya had undertaken training to become a

Designated Premises Supervisor.

- A speaker that was facing the doors to the premises had been removed.
- Notices had been placed informing people they could not take their glasses outside the premises.

The Sub-Committee stated they had spent a great deal of time scrutinising the evidence put before them in detail and had considered each of the options available to the Licensing Committee. They were satisfied that the representations by the Police and the local resident engaged with three out of the four licensing objectives.

REASON FOR THE DECISION

The Sub-Committee Members stated that the Premises Licence Holder and Designated Premises Supervisor, Mr Julius Ephi was unable to promote the licensing objectives as over a sustained period of time, the Police and residents had witnessed serious breaches of the licence conditions, anti-social behaviour and crime and disorder.

The Sub-Committee believed the cause of the concerns which had given rise to the application for review was the poor management of the premises and the lack of skills and competencies of the key individuals involved in the running of the business.

Added to those concerns was the apparent disregard to either the licensing objectives or the licence conditions shown by both the Premises Licence Holder and Designated Premises Supervisor, owners and staff of the licenced premises

The Sub-Committee concluded that it was appropriate and proportionate in light of the licensing objectives to revoke the premises licence. The Sub-Committee did not believe that any modification to the licence conditions which were justifiable and appropriate could be made to prevent the incidents complained of from happening again.

Mr Ephi was informed that he had 21 days to appeal to the Magistrates Court.

58. CLOSE OF MEETING

There being no other items of urgent business, the meeting closed at 1.24pm.