



Leicester
City Council

Minutes of the Meeting of the
LICENSING ENFORCEMENT SUB-COMMITTEE

(Microsoft Teams Virtual Meeting)

Held: TUESDAY, 4 AUGUST 2020 at 10:00 am

P R E S E N T:

Councillor Pickering (Chair)

Councillor Fonseca
Councillor Gee

Councillor Dr Sangster
Councillor Thomas

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76. APPOINTMENT OF CHAIR

RESOLVED:

That Councillor Pickering be appointed as Chair for the meeting.

The Chair outlined the procedure for the meeting to be followed and led on introductions.

77. APOLOGIES FOR ABSENCE

There were no apologies for absence.

78. DECLARATIONS OF INTEREST

Members were asked to declare any interests they may have in the business on the agenda.

Councillor Fonseca declared that he was a member of the panel of the hearing which revoked the Premises License for the applicant in the Personal Licence case.

79. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting of the Licensing Enforcement Sub-Committee held on 7th July 2020 be approved as a correct record.

80. APPLICATION FOR THE GRANT OF A HIGHWAYS AMENITIES LICENCE (STREET CAFÉ): OASIS LOUNGE (MELAYA LTD), 13 NARBOROUGH ROAD, LEICESTER. LE3 0EL

The Director of Neighbourhood and Environmental Services submitted a report concerning the determination of an application for the grant of a Highways Amenities Licence (Street Café) for premises known as Oasis Lounge (Melaya Ltd.), 13 Narborough Road, Leicester, LE3 OEL.

The applicant Miss Narcis Bari (Premises Manager) was present. The Licensing Enforcement Officer, Licensing Team Manager, and Legal Adviser to the Sub-Committee were also present

The Licensing Team Manager outlined the details of the application, including the relevant City Council Policy Guidelines, and drew Members' attention to the objections referred to in the report. It was noted an objection from Leicester City Council Highways in respect of the initial layout and proximity to street furniture had been formally withdrawn following discussion with the applicant to reduce the café seating area size from 1.5metres to 1.2metres. The objections from three local businesses were noted. It was also noted that a Furnishings Grant had been applied for by the premise.

Miss Bari then presented the case as to why the Licence should be granted. She outlined that there had been no recorded complaints against the premises since they opened in December 2019, and that a street café would create a pleasant ambiance for the area. Questions from Members of the Sub-Committee and Officers were answered.

The Licensing Enforcement Officer was also given an opportunity to make any representation and noted that the premise had been co-operative with the Licensing Team.

Members of the Sub-Committee confirmed that they had read the written representations of three local businesspeople who had objected to the application.

All parties were then given the opportunity to sum up 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.

In reaching their decision, 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.

The Chair announced that the decision and reasons made during private deliberation would be publicly announced in writing within five working days. The Chair informed the meeting 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 disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

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 Highways Amenities Licence for a Street Café for premises known as Oasis Lounge (Melaya Ltd), 13 Narborough Road, Leicester, LE3 0EL be GRANTED.

It was noted that the hearing of the application was held virtually in accordance with the Local Authorities and Police and Crime Panel (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.

REASON FOR THE DECISION

The Sub-Committee had been asked to determine an application under the Highways Act 1980, for the grant of a Highways Amenities Licence.

In reaching their decision, Members had carefully considered the committee report, the presentations by the Licensing Team Manager and the Licensing Enforcement Officer, the representation from Miss Bari and objections received from nearby local businesses and legal active given during the hearing. Members also took account of the Regulator's Code and the Council's Licensing Policy on Highways Amenities Licensing.

Members of the Sub-Committee noted that Oasis Lounge was within a row of shops and businesses on Narborough Road in a busy area of the city. The area had a wide range of businesses, including office premises, retail premises, restaurants, take away food outlets and car sales establishments. Some of the retail premises had residential accommodation above.

Members of the Sub-Committee heard that the applicant had worked with the Highways Department and reduced the proposed area of the street café to deal with initial concerns regarding the proximity of existing street furniture. The applicant had also reduced the proposed operating hours and members were impressed by her response to the representations made against the grant of the licence by three local businesspeople.

Members of the Sub-Committee did not feel that public safety would be at risk by the grant of the licence and believed the street café would add an attractive amenity for visitors and residents.

Members of the Sub-Committee felt that the written representations made by those local businesspeople who objected to the application were adequately

addressed by the standard conditions on which the Licence would be issued.

The decision of the members of the Sub-Committee was to grant a licence, on the Council's standard conditions, for the placement of two table, four chairs, enclosing barriers, an awning and such other items of street café furniture as may be approved in advance by the Council's Licensing Department.

81. 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 is considered that the public interest in maintaining the information as exempt outweighs 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 3

Information relating to the financial affairs of any particular person (including the authority)

B1) Personal Licence Review Application

B2) Personal Licence Review Application

82. PERSONAL LICENCE REVIEW APPLICATION

The Director of Neighbourhoods and Environmental Services submitted a report that required Members to determine an application for the review of an existing Personal Licence.

The applicant was present. The Licensing Team Manager and Legal Adviser to the Sub-Committee were also present.

The Licensing Team Manager outlined details of the application including the relevant City Council Policy Guidelines and drew Member's attention to the conviction for a relevant offence referred to in the report.

The applicant was given the opportunity to make a representation but stated they had no comment on the matter.

The Chair asked the applicant to clarify that they understood the proceedings

and had nothing to add, which the applicant confirmed.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present.

In reaching their decision, 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.

The Chair announced that the decision and the reasons would be publicly announced in writing within five working days. The Chair informed the meeting that the Legal Advisor 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 in order to consider their decision.

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

RESOLVED:

That the Personal Licence be REVOKED.

It was noted that the hearing of the application was held virtually in accordance with the Local Authorities and Police and Crime Panel (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.

The Members of the Sub-Committee had listened carefully to the representations and had taken account of the Statutory Guidance, the Regulators' Code and the Council's Licensing Policy.

Members were informed that in October 2018, the Council issued a Personal Licence to the Licence Holder. Subsequent to the grant, the Licence Holder was convicted on 7th November 2019 at Leicester Magistrates Court of an offence contrary to section 136 of the Licensing Act 2003. The brief circumstances of that offending were that between 17th May 2019 and 12th June 2019, the Licence Holder sold alcohol for consumption on premises in Leicester despite the Premises Licence for those premises only authorising off-sales.

The conviction under section 136 of the Licensing Act 2003 was a relevant offence as listed in Schedule 4 of the Act. The conviction was not spent for the purposes of the Rehabilitation of Offenders Act 1974 and therefore gave ground for suspension or revocation of the Personal Licence under section 132A(3)(b) of the Licensing Act 2003.

Members of the Sub-Committee took account of the Licence Holder's personal circumstances, and the Licence Holder's explanation of the offending.

However, the Sub-Committee Members believed the Licence Holder's offending clearly demonstrated their unsuitability to hold a Personal Licence. A Personal Licence authorised an individual to supply alcohol, or authorise the supply of alcohol, in accordance with a Premises Licence but that was exactly what the Licence Holder failed to do by their offending.

Members of the Sub-Committee were reminded of the Council's Licensing Policy details: "The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason, personal licence holders are required to have prescribed training and not have relevant convictions that would indicate their unsuitability".

The decision of the members of the Sub-Committee was that, to promote the licensing objectives, it was appropriate to revoke the Personal Licence under section 132A(3)(b) of the Licensing Act 2003.

The Licence Holder was informed he would have 21 days to appeal the decision to the Magistrates Court should he wish to do so.

83. PERSONAL LICENCE REVIEW APPLICATION

It was noted that the application for the review of the Personal Licence had been withdrawn and would not be considered at the meeting.

84. CLOSE OF MEETING

There being no other urgent business, the meeting closed at 11:41am.