

Leicester
City Council

LICENSING (HEARINGS) SUB-COMMITTEE

DATE: MONDAY, 6 MARCH 2023

TIME: 10:00 am

PLACE: Meeting Room G.03, Ground Floor, City Hall, 115 Charles Street, Leicester, LE1 1FZ

Members of the Sub-Committee

Councillors Pickering, Westley and Whittle

Members of the Sub-Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for Monitoring Officer

Officer contact: Aqil Sarang
Democratic Support, Leicester City Council
City Hall, 115 Charles Street, Leicester, LE1 1FZ
Tel: 0116 454 5591
email: Aqil.sarang@leicester.gov.uk

Information for Members of the Public

Attending meetings and access to information

You have the right to attend formal meetings such as Full Council, committee meetings, and Scrutiny Commissions and see copies of agendas and minutes.

However, on occasion, meetings may, for reasons set out in law, need to consider some items in private.

Due to Covid we recognise that some members of the public may not feel comfortable viewing a meeting in person because of the infection risk.

Anyone attending in person is very welcome to wear a face covering and we encourage people to follow good hand hygiene and hand sanitiser is provided for that purpose.

If you are displaying any symptoms of Coronavirus: a high temperature; a new, continuous cough; or a loss or change to your sense of smell or taste, and/or have taken a recent test which has been positive we would ask that you do NOT attend the meeting in person please.

Dates of meetings and copies of public agendas and minutes are available on the Council's website at www.cabinet.leicester.gov.uk or by contacting us using the details below.

NOTE:

Separate guidance on attending the meeting is available for officers. Officers attending the meeting are asked to contact the Democratic Support Officer in advance to confirm their arrangements for attendance.

Making meetings accessible to all

Wheelchair access – Public meeting rooms at the City Hall are accessible to wheelchair users. Wheelchair access to City Hall is from the middle entrance door on Charles Street - press the plate on the right hand side of the door to open the door automatically.

Braille/audio tape/translation - If you require this please contact the Democratic Support Officer (production times will depend upon equipment/facility availability).

Induction loops - There are induction loop facilities in City Hall meeting rooms. Please speak to the Democratic Support Officer using the details below.

Filming and Recording the Meeting - The Council is committed to transparency and supports efforts to record and share reports of proceedings of public meetings through a variety of means, including social media. In accordance with government regulations and the Council's policy, persons and press attending any meeting of the Council open to the public (except Licensing Sub Committees and where the public have been formally excluded) are allowed to record and/or report all or part of that meeting. Details of the Council's policy are available at www.leicester.gov.uk or from Democratic Support.

If you intend to film or make an audio recording of a meeting you are asked to notify the relevant Democratic Support Officer in advance of the meeting to ensure that participants can be notified in advance and consideration given to practicalities such as allocating appropriate space in the public gallery etc..

The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:

- ✓ to respect the right of others to view and hear debates without interruption;
- ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
- ✓ where filming, to only focus on those people actively participating in the meeting;
- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

Further information

If you have any queries about any of the above or the business to be discussed, please contact committees@leicester.gov.uk

For Press Enquiries - please phone the **Communications Unit on 0116 454 4151**

LEICESTER CITY COUNCIL LICENSING SUB-COMMITTEE PROCEDURAL GUIDE

INTRODUCTORY PHASE

The meeting will be held in public unless stated otherwise in the report.

Present at the hearing will be Members of the Licensing Sub-Committee (minimum 3 Members), Officers from the Licensing Authority, a Legal Adviser to the Sub-Committee, an Officer from Democratic Services.

1. Participants at the meeting will introduce themselves as follows:
 - a. Members and Officers
 - b. Statutory Consultees (if any)
 - c. The Applicant and any representatives
 - d. Persons who have made representations
2. The Chair will check that the Applicant has received a copy of the Officer report.

INFORMATION GATHERING

(*Please Note – for the purposes of a hearing to determine an application in a Cumulative Impact Zone (CIZ), the Applicant will present their case first)

3. The Licensing Officer presents the report (previously circulated)

Questions (for clarification purposes only):
Members
Statutory Consultees (if any)
Persons who have made representations
Applicant and Representative(s)
4. Depending on the nature of the report, Statutory Consultees present their comments.

Questions (for clarification purposes only):
Members
Officers
Persons who have made representations
Applicant and Representative(s)
5. Persons who have made representations

Questions (for clarification purposes only):
Members
Officers
Statutory Consultees (is any)
Applicant and Representative(s)

6. *Applicant's Case

Questions (for clarification purposes only):

Members

Officers

Statutory Consultees

Persons who have made representations

7. Summing up in the following order

Officers

Statutory Consultees

Persons who have made representations

*Applicant and Representative(s)

8. The Legal Adviser to the Sub-Committee to advise the Sub-Committee in the presence of the Applicant, Representatives, Officers, Statutory Consultees, and persons who have made representations on relevant issues the Members need to be aware of when they come to make their decision.

DECISION MAKING

9. Apart from the Sub-Committee Members and the Democratic Support Officer everyone will be asked to withdraw from the meeting The Legal Adviser to the Sub-Committee may be called back to the meeting to advise on the wording of the decision the Sub-Committee Members will have made during private deliberation.

10. The Applicant will be advised that the decision made by the Sub-Committee will be made public within 5 working days of the meeting.

PUBLIC SESSION

AGENDA

FIRE / EMERGENCY EVACUATION

If the emergency alarm sounds, you must evacuate the building immediately by the nearest available fire exit and proceed to the area outside the Ramada Encore Hotel on Charles Street as directed by Democratic Services staff. Further instructions will then be given.

- 1. APPOINTMENT OF CHAIR**
- 2. APOLOGIES FOR ABSENCE**
- 3. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business to be discussed.

- 4. MINUTES OF PREVIOUS MEETING** **Appendix A**

The minutes of the meeting of the Licensing Hearing Sub Committee held on 13 June 2022 are attached and Members are asked to confirm them as a correct record.

- 5. PRIVATE SESSION**

PRIVATE SESSION MEMBERS OF THE PUBLIC TO NOTE

Under the law, the Sub-Committee is entitled to consider certain items in private where in the circumstances the public interest in maintaining the matter exempt from publication outweighs the public interest in disclosing the information. Members of the public will be asked to leave the meeting when such items are discussed.

The Sub-Committee is recommended to consider the following reports in private on the grounds that they contain 'exempt' information as defined by the Local Government (Access to Information) Act 1985, as amended, and consequently that the Sub-Committee makes the following resolution:-
"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 they involve 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

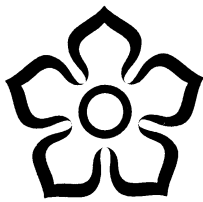
Information relating to the financial or business affairs of any particular person (including the authority holding that information)

B1) Application for a Temporary Event Notice

6. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENSE - SOPHY **Appendix B**

The Director of Neighbourhood and Environmental Services submits a report to consider the application for a variation to an existing premises license.

7. ANY OTHER URGENT BUSINESS



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.

Appendix B

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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