



Leicester
City Council

Notes of the
HEARING UNDER THE LICENSING ACT 2003

Held: THURSDAY, 3 MARCH 2011 at 9:30am

P R E S E N T:

Councillor Scuplak (Chair)

Councillor Lloyd-Harris

Councillor Mugglestone

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1. APPOINTMENT OF CHAIR

RESOLVED:

that Councillor Scuplak be appointed as Chair for the meeting.

2. DECLARATIONS OF INTEREST

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

No such declarations were made.

**3. APPLICATION FOR A REVIEW OF AN EXISTING PREMISES LICENCE:
FUSION, 51-53 BELVOIR STREET, LEICESTER, LE1 6SL**

The Director Environmental Services submitted a report that required Members to determine an application for a review of an existing premises licence for Fusion, 51-53 Belvoir Street, Leicester, LE1 6SL.

Members noted that representations had been received in respect of this application, which necessitated that the application for a review of an existing premises licence had to be considered by Members.

Mr Rajesh Govind, now the designated premises supervisor (DPS) and premises licence holder (PLH), Ms Kanta Patel and Mr Nish Karia as representatives were present. Supt. Prior, PC TJ Mavani, PC Jon Webb, PC Dave Wadsworth, and PS Sean Moore from Leicestershire Constabulary, Ms Bobby Smiljanic from the Licensing Team (as witness for the Police), an Officer from the Noise Control Team, the Licensing Team Manager and a Legal Officer from Leicester City Council were also present.

Members were asked to note that at the time of writing the report Mr

Kamalkumar Patel was the DPS, but he had been removed and Mr Rajesh Govind was the current DPS.

Colour photographs of the premises were circulated to Members.

The Licensing Team Manager presented the report and evidence was heard from all parties present. It was noted that an application for a review of the existing premises licence had been received from Leicestershire Constabulary on the grounds of the prevention of crime and disorder and public safety. A representation had been received from the Noise Team on the grounds of the prevention of public nuisance. Additional information from the current licence holder had been circulated to Members prior to the meeting.

The Police then proceeded to outline the reasons for their application and answered questions from Members:

- In-between submitting the review application and the date of the hearing, the situation had changed.
- The building was owned by the local diocese, and was sub-let by the then DPS, Mr Rajesh Govind to Mr Bhavik Kotecha in October 2009, which was a commercial arrangement.
- Mr Govind and Ms Patel had run the bar until October 2009, during which there were no problems at all. The bar was well run.
- During the period that the bar was sub-let to Mr Kotecha, the premises licence was held by Mr Bashir Chataria.
- A subsequent application was made to extend the opening hours to 5.00am in April 2010, since when a number of serious incidents have occurred, and the police considered using their powers of closure on two recent occasions.
- The application for a review of the premises licence included a number of steps that could be considered in order to promote the licensing objectives; the removal of the DPS; a terminal hour for licensable activities of 2.00am; the removal of a number of conditions in Annex 2 of the current licence that either replicate the law or are unenforceable.
- It was suggested that the conditions be replaced by ones proposed; that CCTV be installed following advice from the Crime Reduction Officer; sufficient door staff be employed to deal with any likely contingency; a warning given that subsequent reviews could result in the licence being revoked.
- A meeting was held with Mr Kotecha and Mr Chataria, where CCTV footage was shown the outlined evidence was presented to them. Details were included in an attached letter dated 1 February 2011.
- The Licensing Enforcement Team Manager and PC Mavani had met with Mr Govind and Ms Patel, from which an application was made to transfer the premises licence from Mr Chataria to Mr Govind and replace the DPS with Mr Govind. Mr Govind and his wife wished to establish themselves as proprietors of the business.
- In light of the recent developments, the view of the Police was that the licensing objectives could be promoted, and they had confidence in the

current DPS.

The Noise Control Team Officer then addressed the Committee and made the following points:

- When Mr Govind was in the premises before there were no complaints.
- During November and December 2010, complaints had been made regarding the playing of amplified music and voices.
- The previous DPS had been written to and told that a sound limiter needed to be installed, or a review would be called.
- With the current DPS, he was of the opinion that the condition to install a sound limiter might not be required.
- The music system that was to be installed by the new DPS could be sound checked.
- The building was single glazed, however, the noise could have been controlled before. Installing double glazing and a lobby would be expensive, but not necessarily required under the new management regime.
- The site around the premises had changed since the current DPS had been in charge. There were more residential properties nearer to the bar.
- Windows and doors could be kept closed apart from access and egress and windows remain closed. With better ventilation for the summer months there would be no cost involved to keep the noise levels down.

The applicant and representatives were given the opportunity to respond to points raised regarding the incident and answered questions from Members:

- Comments and assistance from the Noise Control Team would be welcome.
- The DPS had always worked well with all authorities.
- Noise limiters were very expensive but the Committee were assured that one would not be required as all the powerful speakers, bass boxes and system had been removed from the premises, and replaced with a much smaller system.
- Different clientele would visit the premises.
- The DPS would be respectful of the new development of residential properties at the rear.
- There were no windows in the premises, just a door. Other premises on Belvoir Street had the doors open. There had been no problems at the premises with the door open when he had been DPS before.
- Air conditioning was installed inside the premises, though it was also good to have fresh air in as well.
- Emphasis was placed on what the Police and Noise Control Officer had stated in that in the two years the current DPS had run the premises there had been no complaints.
- The upstairs in the premises would be used for private parties, and the flexibility to open until 3.00am was asked for when a private party was booked.
- Prior to Mr Patel taking over as DPS of the premises previously they had not met him. It was purely a commercial business arrangement. If Mr Patel

had remained in the premises, they would have lost their licence. He was disappointed but they had no option but to ask him to leave. He was given a months notice.

A Licensing Team Manager as witness for the Police made the following statement:

- The current DPS and PLH had contacted her to assist them in opening up the premises again and running properly. There were no concerns that the previous tenants and the current DPS or staff members were linked. There were no foreseeable problems, but as an extra precaution the Committee might wish to consider adding a condition to the licence to prevent the previous occupants from being allowed onto the premises.

All parties were then given the opportunity to sum up their positions and make any final comments.

Prior to deliberation, the Legal Officer advised Members of options available to them in making a decision.

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 DPS and representatives, Officers from Leicestershire Constabulary, Licensing Officers, Legal Officer and persons in the public gallery then withdrew from the meeting

Members then gave the application full and detailed consideration.

The DPS and representatives, Officers from Leicestershire Constabulary, Licensing Officers, Legal Officer and persons in the public gallery then returned to the meeting

RESOLVED:

that the premises licence not be revoked, but be amended and conditions attached as follows:

- 1) Licensable activities to cease at 02.30 hours daily, and the premises to close at 03.00 hours daily;
- 2) All ten of the existing conditions in Annex 2 of the premises licence to be removed and the following conditions to be added:
 - The licence holder will ensure that CCTV is installed following advice from the Leicestershire Constabulary Crime Reduction Officer and maintained in accordance with the Information Commissioner's CCTV Code of Practice;
 - The licence holder will employ sufficient door staff to deal with any likely contingency;

- The following named individuals shall not be allowed on the premises when licensable activities are taking place – Bashir Chataria, Kamalkumar Patel and Bhavik Kotecha.

The Committee's decision was made in the interests of promoting the licensing objectives for the prevention of crime and disorder, and public safety.

4. CLOSE OF MEETING

The meeting closed at 10.58am.