



Leicester
City Council

LICENSING (HEARINGS) SUB-COMMITTEE

DATE: MONDAY, 15 APRIL 2019

TIME: 9:30 am

PLACE: The Tea Room - Town Hall, Town Hall Square, Leicester

Members of the Sub-Committee

Councillors Byrne, Hunter and Unsworth

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

for Monitoring Officer

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Information for members of the public

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- ✓ 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

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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 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

Members are asked to appoint a chair for the Hearing.

2. APOLOGIES FOR ABSENCE

3. DECLARATIONS OF INTEREST

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

4. MINUTES OF PREVIOUS MEETING

Appendix A

The minutes of the previous Licensing (Hearings) sub-committee meeting held on 20th March 2019 are attached and Members will be asked to confirm them as a correct record.

5. PRIVATE SESSION

AGENDA

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 7

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

6. APPLICATION TO TRANSFER AN EXISTING PREMISES LICENCE AND TO VARY A PREMISES LICENCE

Appendix B

The Director of Neighbourhood and Environmental Services submits a report on an application to transfer an existing premises license and to vary a premises license to specify an individual as a designated premises supervisor.

(Wards affected: North Evington)

7. ANY OTHER URGENT BUSINESS



Leicester
City Council

Appendix A

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

Held: WEDNESDAY, 20 MARCH 2019 at 9:30 am

P R E S E N T:

Councillor Singh Johal (Chair)

Councillor Fonseca

Councillor Unsworth

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69. APPOINTMENT OF CHAIR

Councillor Singh Johal was appointed as Chair for the meeting.

70. APOLOGIES FOR ABSENCE

There were no apologies for absence.

71. DECLARATIONS OF INTEREST

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

There were no declarations of interest made.

72. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the previous Licensing (Hearings) Sub-Committee meetings held on 1st February 2019 and 25th February 2019 be confirmed as correct records.

**73. APPLICATION FOR THE REVIEW OF AN EXISTING PREMISES LICENCE:
BOMBAY NIGHT DANCE BAR, 32 BELGRAVE ROAD, LEICESTER, LE4
5AS**

The Director of Neighbourhood and Environmental Services submitted a report that required the Sub-Committee to determine an application for the review of an existing premises licence for Bombay Night Dance Bar, 32 Belgrave Road, Leicester, LE4 5AS.

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 the Sub-Committee.

Mr Vijay Chabra the Premises Licence Holder (PLH) was present and was accompanied by a legal representative. Mr Dave Braithwaite (Deputy Licensing Manager, Leicestershire Police), PC Martin Rawlings, witnesses Mrs Mariam Patel and Mrs Hemlata Patel, the Chief Licensing Officer, Licensing Team Manager, and the Legal Adviser to the Sub-Committee were also present.

Observing were Mr Nigel Rixon (Licensing Manager, Leicestershire Police), PC Jeff Pritchard, and Mr Anil Bhawsar.

Also in attendance was a reporter from the Leicester Mercury.

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

The Chief Licensing Officer presented the report. It was noted that an application for the review of an existing premises licence had been received from Leicestershire Police on 7th January 2019 which was made on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance. The Police were concerned that during the past 12 months, there had been reported incidents either within the club or just outside, and there was evidence to show that the premises and management were not supporting the licensing objectives.

It was further noted that 28 identical representations were received on 23rd January from local residents which were made on the grounds of the prevention of crime and disorder, the prevention of public nuisance and public safety. The residents were concerned that they were confronted by drunk people coming from the premises at night and in the early hours of the morning causing anti-social behaviour and nuisance.

Representatives from Leicestershire Police were given the opportunity to outline the reasons for their representation and responded to questions from the Sub-Committee. Bodycam footage provided by the Police was viewed by all persons present.

Mrs Mariam Patel outlined the reasons for her representation and answered questions from Members.

Mrs Hemlata Patel outlined the reasons for her representation and answered questions from Members.

Mrs Mariam Patel and Mrs Hemlata Patel then withdrew from the meeting.

Mr Chabra and his legal representative were then given the opportunity to respond to the application for the review of the premises license and answered

questions from the Sub-Committee and Police. The Chair asked to view the Bodycam footage again for clarification of a point made. Mr Chabra and his legal representative also asked questions of the Police and asked for a further viewing of the Bodycam footage for clarification of points made.

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

Prior to the Sub-committee considering the application, the Legal Adviser to the Sub-Committee advised them of the options available to them in making a decision, and 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.

The Chief Licensing Officer, Licensing Team Manager, Legal Adviser to the Sub-Committee, Mr Chabra and his legal representative, Mr Braithwaite, PC Rawlings, observers Mr Rixon, PC Pritchard, Mr Bhawsar and reporter from the Leicester Mercury then withdrew from the meeting.

The Sub-Committee then gave the application full and detailed consideration.

The Legal Adviser to the Sub-Committee was then recalled to the hearing to give advice on the wording of the decisions.

The Chief Licensing Officer, Licensing Team Manager, Mr Chabra and his legal representative, Mr Braithwaite, PC Rawlings, observers Mr Rixon, PC Pritchard, Mr Bhawsar and reporter from the Leicester Mercury then returned to the meeting.

The Chair informed all persons present that they had recalled the Legal Adviser to the Sub-Committee for advice on the wording of their decisions.

RESOLVED:

That the operating hours and conditions of the existing premises licence for Bombay Night Dance Bar, 32 Belgrave Road, Leicester, LE4 5AS be modified.

REASON FOR THE DECISION

In reaching their decision the Sub-Committee Members had carefully considered the Committee report, all representations made by Leicestershire Police in support of the application for the review, representations made on behalf of the Premises Licence Holder, representations received from residents 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 noted the current operating hours of the premises, and its location in a residential area. It was further noted that Leicestershire Police had asked for the review of the premises licence after attending several incidents at the licensed premises and after receiving complaints from residents. The Police had stated the incidents and complaints were the result of the inability and unwillingness of those managing the premises to promote the licensing objectives. The Sub-Committee had been informed that a plan of action had been agreed with the previous Premises Licence Holder on 1st August 2018, however, the actions identified in the plan had not been complied with and that problems with licence compliance and other behaviours had continued. It was also reported that a further meeting was held between the Police, the Premises Licence Holder and Mr Chabra on 6th December 2018. At the meeting the Police had stated their intention to take formal action by seeking a review of the premises licence, but despite the seriousness of the position, the Premises Licence Holder and Mr Chabra had not accepted or acknowledged that there were serious issues for the business to address. Furthermore the Premises Licence Holder had refused to consider a variation of the premises licence suggested to them to address or reduce the behaviours complained of. The Police had reported that Mr Chabra had refused a reduction in the operating hours to 1.00am stating his clientele did not arrive at the premises until after 11.00pm.

The Sub-Committee had also received a substantial representation made on behalf of the current Premises Licence Holder Mr Chabra who had taken over full responsibility for the premises on 7th February 2019, after having acquired the business in April 2018, though the Police had reported Mr Chabra had been involved with the premises before April 2018 but it was not clear in what capacity. The Sub-Committee summarised the representation made on behalf of the License Holder as follows:

- Most if not all incidents relied on by the Police were wholly unsubstantiated and where incidents were said to have occurred the Licence Holder was in no way responsible or accountable;
- In relation to the representations of residents it was submitted the Sub-Committee should not accept those on the basis that it was one representation for 28 residents in identical terms – 24 of those being from one building which was in any event some distance away from the premises in question;
- The evidence relied upon by Leicestershire Police had been presented in an unrepresentative way and that the application for review lacked any evidential basis;
- Significant concerns were expressed regarding the consultation exercise undertaken with residents and it was put forward to use that was an unprecedented approach taken by a police force which demonstrated a scattergun approach to support a weak application with unsubstantiated evidence.

The main thrust of the representations was that the Police had an unfounded prejudice to the operation of the premises by Mr Chabra – and the Sub-Committee were asked not to allow those prejudices to have a bearing on the decision.

The Sub-Committee confirmed that they had not taken anything put before them on face value and had spent a great deal of time scrutinising the evidence in detail and with due rigour. They also considered each of the options available to the Licensing Committee.

The Sub-Committee Members stated the because of what they had heard, they were satisfied that the representations by the Police and residents engaged with three of the four licensing objectives. The Sub-Committee concluded that it was appropriate and proportionate in light of the licensing objectives to modify the conditions on the licence and make a change to the operating hours of the premises.

The Sub-Committee gave their reasons for the decision as follows:

1. 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.
2. Added to those concerns was the unwillingness of those involved to cooperate with responsible authorities such as the Police.
3. The Sub-Committee believed that Mr Chabra had exercised control over the business since he took over ownership in April 2018 and that whilst Mr Prakash had been the named Premises Licence Holder, Mr Chabra's role was central in the cause or causes of the concerns which had given rise to the application.

The Sub-committee had considered whether lesser sanctions would result in a cessation of the matters complained of and concluded that the most appropriate course of action was:

1. To modify the licence conditions in accordance with the draft put forward by Mr Chabra as follows:

PROPOSED AND AGREED CONDITIONS FOR BOMBAY NIGHT DANCE BAR

The Licensee, Mr Vijay Chabra and Leicestershire Constabulary invite the Committee to delete the old and obsolete conditions 1, 2, 4, 5, 6, 7 and 8 under the heading “Annex 2 - Conditions consistent with operating schedule” and to impose the following conditions:

- A tamper proof CCTV system shall be in use at the premises at all times when the venue is operating. This CCTV system shall be used and

maintained in accordance with the manufacturer's instructions.

- CCTV images shall be retained for a period of at least 28 days and those images shall be made available upon reasonable request by an officer of a responsible authority in accordance with data protection law.
- Best endeavours will be used to prevent patrons taking glasses and bottles out of the premises. Door staff shall be instructed to remove any glasses and bottles from persons leaving the venue. Plastic glasses will be provided should a customer wish to remove a drink from the premises.
- The Premises Licence Holder shall maintain a security and dispersal policy, which will be made available to an officer of any responsible authority upon reasonable request. This dispersal policy shall include provision that all door staff shall refuse entry to any customer acting in a disorderly manner.
- A proof of age scheme such as Challenge 21 will be operated at the premises where the only forms of acceptable identification are photographic identification cards such as a driving licence, passport or PASS card.
- No child under the age of 18 will be allowed within the premises when licensable activity is taking place.
- Children under 18 will be allowed in the premises for the purposes of a private function. The children must be subject to adult supervision whilst on the premises.
- Notices will be displayed at the premises' exit(s) requesting customers to leave quietly and reminding them that they are in a residential area.
- A risk-assessed number (subject to a minimum of two on a Friday/Saturday and bank Holidays) SIA registered door supervisors shall be on duty between the hours of 00:00 (or opening time if later) until 15 minutes after the venue has closed. A minimum of 1 SIA will carry out these duties operating a body worn camera.
- A log shall be kept detailing all refused sales of alcohol and refusal of entry to the premises. The log shall include the date and time of the refusal and the name of the member of staff who refused the sale. A copy of the log or shall be made available to an Officer of a Responsible Authority upon request.
- The internal doors to the premises will remain closed whilst the premises is open to the public, save for ingress and egress. All windows will remain closed whilst the premises is open to the public. The external front door will be closed at the times specified below for last orders.
- There will be a limit of 5 customers to be allowed out of the premises at any one time whilst the premises are open to the public.
- The entrance door which is located on Garfield Street will not be used, and

remain closed whilst the premises are open to the public.

- There shall be licensing training provided to staff including challenge 21 training on an annual basis.

2. Change the operating hours as follows:

Opening Hours

Monday to Friday	11.00am to 3.00pm 5.00pm to finish
Saturday and Sunday	11.00am to finish

Closing Hours

	Last Orders	Close
Sunday	11.00pm	11.30pm
Monday to Thursday	11.30pm	Midnight
Friday and Saturday	1.30am	2.00am

The Sub-Committee believed that the amendment in hours would minimise the impact on residents and ensure the licensing objectives would be met.

Mr Chabra was informed he could appeal the decision to the Magistrates Court within 21 days.

74. ANY OTHER URGENT BUSINESS

The Chair had agreed to take an additional item of urgent business to allow the application for a new premises licence within a cumulative impact zone for Tigre Eyes Restaurant, 7 Abbey Street, Leicester, LE1 3TE. The agenda item was adjourned until 5th April 2019.

75. CLOSE OF MEETING

The meeting closed at 3.10pm.

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

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