



Leicester  
City Council

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

Held: MONDAY, 4 NOVEMBER 2024 at 10:00 am

P R E S E N T:

Councillor Pickering (Chair)

Councillor Bonham

Councillor Cank

Councillor Kennedy-Lount

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**7. APPOINTMENT OF CHAIR**

Councillor Pickering was appointed as Chair.

**8. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**9. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**10. APPLICATION FOR A VARIATION OF AN EXISTING PREMISES LICENCE FOR THE 72 BAR AND RESTAURANT, 72 BRAZIL STREET, LEICESTER.**

Councillor Pickering, as Chair led on introductions and outlined the procedure the hearing would follow.

The Director of Neighbourhood and Environmental Services submitted a report on an application for a variation of an existing Premises Licence for The 72 Bar and Restaurant, 72 Brazil Street, Leicester.

The applicant, Mr Darshan Kumar Sharma was present with his representative, Licensing Agent, Mr Anil Bhawsar, Ms. Zara Hasim and the business owner, Mr Harnek Singh. Also in attendance was PC Jefferson Pritchard, Leicestershire Police, Jasvinder Mann, Noise and Pollution team, and Elizabeth Arculus, Licensing Enforcement team. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee and an observer.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application.

A representation was received on 3rd October 2024 from the Police. The representation related to the prevention of crime and disorder, the prevention of public nuisance and public safety. The Police were concerned that the premises had only been open for three months and there had already been multiple breaches of the existing premises licence.

A representation was received on 7th October 2024 from the Noise team. The representation related to the prevention of public nuisance. The Noise team were concerned that having an outdoor area would increase noise for nearby residents.

A representation was received on 9th October 2024 from the Licensing Enforcement Team. The representation related to the prevention of crime and disorder, the prevention of public nuisance and public safety. The Licensing Enforcement team were concerned about the applicant requesting to remove the condition regarding SIA door staff from the licence on home matchdays for Leicester City FC. They had been in contact with the applicant who had agreed to retain this condition and as a result the Licensing Team no longer opposed the application.

The Planning Team were a Statutory consultee as part of the application process. They had not submitted a representation in relation to the application however had provided clarification on the status of the planning permission for the premise. They had confirmed:-

‘The Class E use does cover all of the first floor on the inside. The application sought to install a canopy over the outside area and this was refused so this area should not be used as part of the restaurant.’

Mr Pritchard, Police Constable for Leicestershire Police, was given the opportunity to outline the details of the Police’s representation and answered questions from Members and officers.

Mr Mann, Noise and Pollution Control Officer was given the opportunity to outline the details of their representation and answered questions from Members and the applicant.

Ms Arculus, Licensing Officer was given the opportunity to outline the details of their representation and answered questions from the Members.

Mr Bhawsar and Mr Sharma were given the opportunity to address the Sub-Committee and answered questions from the Members and officers. Mr Bhawsar invited the Sub-Committee to consider a Noise Management Plan but as this was only produced at the hearing, PC Pritchard objected indicating that the Police would have required time in advance to consider it. The Sub-Committee did not accept the document but allowed Mr Bhawsar to explain its

content.

All parties present 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 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, 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.

The Chair announced that the decision and reasons would be announced 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 Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

The Sub-Committee's decision is that it is appropriate for the promotion of the licensing objectives to **REJECT** the application for a variation of the existing Premises Licence.

REASONS

In considering the application by Darshan Kumar Sharma for variation of the Premises Licence he holds for 72 Bar and Restaurant at 72 Brazil Street, Leicester, the Sub-Committee has considered the Licensing Officer's Report and all the relevant representations, both written and oral. The Sub-Committee has taken account of all relevant legislation, the Statutory Guidance, the Regulators' Code and the Council's Licensing Policy. The Sub-Committee has had regard in its deliberations to the steps appropriate to promote the licensing objectives in the overall interest of the local community, and has decided the matter on its merits on the evidence presented to it. The Sub-Committee has had regard to the public sector equality duty detailed in section 149 the Equality Act 2010 and has taken a risk based approach to its decision which has been made on the balance of probability. The Sub-Committee has, as it is required to do, limited its deliberation to the promotion of the licensing objectives (with each licensing objective being of equal importance) and nothing outside of those parameters.

The premises is located on the junction of Brazil Street and Burnmoor Street in a building which was previously a factory. The Bar/Restaurant is on the first

floor with access via a door at ground level on Brazil Street and via a vehicle ramp on Burnmoor Street onto the roof top open-air car park. There is an external designated smoking area on the first floor. The immediate surrounding area consists of a mix of residential and commercial units. The nearest residential property is approximately 25 to 30 meters away on Burnmoor Street. The King Power football stadium is a short distance away.

Mr Sharma holds the Premises Licence which was issued on 18 June 2024 when the Bar/Restaurant was known as Kings Restaurant & Bar. The premises is licensed for the performance of live music, the playing of recorded music and the supply of alcohol for consumption ON the premises 7 days a week from 11am to 11pm on Sunday to Thursday and from 11am to midnight on Friday and Saturday. It is also licensed for the provision of late night refreshment on Friday and Saturday from 11pm to midnight. The variation application has been made a little under three months since the issue of the Premises Licence.

The original application asks: (i) to extend the licensed hours to end at 1.30am for Diwali Celebrations, Christmas Eve and New Years Eve; (ii) to extend the licensed area to include an outdoor area on the first floor; and (iii) to remove three conditions from the Licence those being: (a) Customers will not be permitted to consume drinks supplied by the premises, outside the licensable area marked on the site plan whilst stood up. Vertical drinking will not be permitted immediately outside the premises; (b) No more than thirty customers will be permitted to remain within the designated smoking area or other external space at one time between 10pm and closing to the public, with the exception of entry and egress; and, (c) A minimum of three Security Industry Authority (SIA) front line door supervisors will be deployed at the premises on Leicester City FC men's team, home matchdays.

The Application details in connection with the request to remove the conditions detailed at (a) and (b): "We can't in good faith restrict the number of customers wanting to smoke or customers from walking into the smoking area with their drinks as well as the plan to eventually set up an outdoor seating area both prohibits us from accepting this clause. We have countered that there will be CCTV surveillance of the area as well as staff monitoring at all time and drinks will be in plastic glasses for all guests on match days for extra safeguarding."

The Application details in connection with the request to remove the condition detailed at (c): "The requirement of 3 SIA door supervisors is excessive and for a family friendly bar and restaurant we do not see the need for it. On match days we will happily agree to having 1 door supervisor 2 hours before and 1 hour after the match as per their requirements."

Representations were received in opposition to the application from Leicestershire Police, the Council's Noise and Pollution Control Team and the Council's Licensing Enforcement Team.

The Licensing Enforcement Team had been concerned with the request to remove the condition regarding SIA door supervisors on home matchdays from the Licence. Mr Sharma subsequently agreed that the condition should remain

on the Licence and as a result the Licensing Enforcement Team no longer opposed the application.

Leicestershire Police made representations based on the prevention of crime and disorder, public safety and the prevention of public nuisance. They were concerned that only three months had passed since the Licence was issued before the application for variation was made. They were concerned that three Late Temporary Event Notices had been given for the use of the outdoor area on home matchdays which they viewed as an attempt to circumvent the conditions originally agreed with Mr Sharma when the Licence was first issued. The first was made for the first home game of the season on 19 August 2024. This Late TEN was missed by the Police because of staff leave so no objection was made and the event went ahead. The variation application was made on 11 September 2024. The Police visited the premises on 21 September 2024 and observed the breach of a number of Licence conditions, namely: customers were standing drinking alcohol in the outdoor area; at least one body worn camera was not being used by either a staff member or a SIA door supervisor; there was no sign-in book for SIA door supervisors; and, Mr Sharma was unaware of the 'Ask for Angela' scheme and two of the SIA door supervisors had limited knowledge of the scheme. At a preplanned meeting on 23 September 2024 the applicant apologised for the breaches observed on 21 September 2024 but reiterated that there was no need for three SIA door supervisors to be deployed on home matchdays as there were plenty of Police on the street on those days. The remaining Late TENs were given for 17 September 2024 and 17 October 2024. The Police objected to both events so they did not go ahead. The Police do not believe Mr Sharma has shown himself to be a responsible operator yet. The premises has only opened on a limited number of occasions. They were concerned by the original request to remove the condition regarding SIA door supervisors on home matchdays from the Licence and Mr Sharma's original suggestion that in the alternative one member of security would be sufficient to control the premises. As the premises has two entrances, an inside area and a large external area, the Police viewed this as extremely dangerous believing it would ultimately put both customers and staff at risk of harm. The Police indicated the nearest residential property was approximately 25 metres away. They believe that the seasonal variations requested should be processed by a Standard TEN given in due course in good time with full details of the arrangements in place at the premises for those dates.

The Noise and Pollution Control Team representation relates to the prevention of public nuisance. Although the area has a residential and commercial mix, many of the residential properties back onto more residential properties. Although there is commercial noise during the daytime, as the evening progresses the background noise reduces and sound has the potential to travel further. They had taken noise readings at 10.20pm and found the area to be very quiet. They are concerned that an outdoor area for customers will increase noise for nearby residents, especially during the summer months when residents will have their windows open. The fact that the area would be on the first floor would magnify the noise compared to similar noise generated at ground level. When asked whether they had visited the outside first floor area

they confirmed they had not because they could see it from ground level. They viewed the premises as being simply too close to residential properties for the requested variation to be workable. The Noise Team also expressed concern with Mr Sharma's customer management abilities as a result of the indication in the application that "we can't in good faith restrict the number of customers from walking into the smoking area with their drinks". They were also concerned by the original request to remove the condition regarding SIA door supervisors on home matchdays from the Licence and Mr Sharma's original suggestion that in the alternative one member of security would be sufficient to control the premises.

The Sub-Committee heard from Anil Bhawsar (Licensing Agent), Darshan Sharma, Zara Hasim and Harnek Singh. They confirmed the condition regarding SIA door supervisors on home matchdays was to remain on the Licence.

Although 72 Bar and Restaurant is a new business, Mr Sharma has been a Personal Licence holder for over 10 years and has previously run two other licensed premises in Leicester. 72 Bar and Restaurant is primarily a restaurant with an indoor seated capacity of 135 which aims for a clientele commensurate with premium prices. He had wanted to change the plan to include the outdoor area on the first floor when the Premises Licence was issued but Licensing informed him that would require a new application which would need to be advertised. That is why the Late TENs had been given. It had not been possible to give them as Standard TENs as they could only be given when staff had confirmed their availability to work. They had measured the distance to the first residential property at 30 metres. The business now had a Noise Management Plan in place. The Sub-Committee was invited to view this document but as it was only produced at the hearing, the Police objected to its production on the basis they would have required time in advance to consider it. The Sub-Committee did not accept the document but allowed Mr Bhawsar to explain its content. The ramp to the first floor rooftop was not accessible by vehicle on home matchdays as the Police closed off the roads in the immediate area and there were signs indicating that there was no access by foot. Incidental music was played in the Restaurant but doors remained closed save for access and egress and no music would be played in the outside area. It was not accepted that noise would travel to nearby residential properties. It was accepted that errors had been made when the Police visited on 21 September 2024 but these had been rectified. Staff were now fully trained and a new CCTV Security Company had been engaged so that CCTV footage is now accessible and bodycams are worn. Photographs of the Restaurant and outside area had been submitted prior to the hearing. These had been taken the previous Tuesday. When Members pointed out that the photographs depicted obvious standing areas inside the premises and no food was in sight, it was explained that on the day there was no chef so food was not being sold. There was now a chef and food was now being sold on home matchdays. The photographs depicted the outside area as it was proposed to be used with a capacity of 50. Only home fans would be admitted to the premises on home matchdays and this would be policed by the SIA door supervisors. Mr Sharma accepted that no application had been made for planning permission to use the

external area on the first-floor but indicated this would be made. Mr Bhawsar emphasised the applicant has the necessary experience, the intention to co-operate with the Responsible Authorities and the intention to operate in a manner which would not jeopardise the Premises Licence or the business.

The Sub-Committee noted that no representations had been received from residents or local businesses. However, the Sub-Committee had no reason to doubt the assessment of the position made by the Noise and Pollution Control Team. Common sense indicates that noise would travel from the outside first floor area to nearby residences whether they be 25 meters or 30 metres away.

The Sub-Committee accepts that Mr Sharma has business experience but the close proximity to the King Power Stadium requires operational confidence and ability which is not in evidence at this time. The Sub-Committee appreciates that the original application to remove the condition regarding SIA door supervisors on home matchdays from the Licence was withdrawn but the fact that it was included in the first place is troubling when the explanation for its inclusion is taken as "The requirement of 3 SIA door supervisors is excessive and for a family friendly bar and restaurant we do not see the need for it. On match days we will happily agree to having 1 door supervisor 2 hours before and 1 hour after the match as per their requirements." The premises has two entrances, an inside area and a large external area. It would clearly have been inappropriate to remove or alter that condition.

The written application also included the following explanation in part for the removal of the other two conditions which remained as part of the variation application: "We can't in good faith restrict the number of customers wanting to smoke or customers from walking into the smoking area with their drinks ...". That is troubling. Mr Sharma should be able to police the Licence conditions and should ensure that the correct management skills and personnel are in place to do this.

The Sub-Committee note that the Premises Licence conditions were breached on 21 September 2024 albeit subsequently rectified.

The Sub-Committee was informed that the Planning Team had clarification the status of the planning permission for the premises: "The Class E use does cover all of the first floor on the inside. The application sought to install a canopy over the outside area and this was refused so this area should not be used as part of the restaurant." The Sub-Committee note that the outside area was utilised on 19 August 2024 under the authority of the first Late TEN but without planning permission.

The Sub-Committee's decision was made in the interests of promoting the licensing objectives.

Any appeal against the decision must be made within 21 days to the Magistrates Court.

**11. ANY OTHER URGENT BUSINESS**

There being no other urgent business, the meeting closed at 11:57am.