
LICENSING SUB COMMITTEE

Wednesday, 28th September, 2016

Present: Councillor Mohammad Ayub (in the Chair), Councillors Joyce Plummer and Paul Thompson

In Attendance: Police Sergeant Jason Middleton, Lancashire Constabulary (East Division)

185 Apologies for Absence

There were no apologies for absence.

186 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations.

187 Minutes of Meetings

The Minutes of the meetings of the Licensing Sub-Committee held on 21st and 29th April 2016 were submitted for approval as correct records.

Resolved - **That the Minutes be received and approved as correct records.**

188 Licensing Hearing Procedure

The Licensing Sub-Committee was advised of the Council's Conduct of Hearings Procedure which was to be used in relation to hearings required under the Licensing Act 2003. The Procedure was attached as Appendix H to the undermentioned application.

Resolved - **That the Procedure be noted.**

189 Licensing Act 2003 Determination Hearing - EU General Traders Ltd., 38 Whalley Road, Accrington

In accordance with the Hyndburn Borough Council Policy on the Conduct of Hearings and the Licensing Act 2003 (Hearings) Regulations 2005, the Licensing Sub-Committee was advised of the details of two simultaneous applications made under the Licensing Act 2003. The applications were as follows:-

- (i) To transfer the premise licence pursuant to Section 42, Licensing Act 2003 to EU General Traders Ltd., 38 Whalley Road, Accrington - premises known as Eklep Euro.
- (ii) To vary the premises licence relating to 38 Whalley Road, Accrington to specify another individual as designated premises supervisor pursuant to Section 37, Licensing Act 2003

A report relating to the applications was submitted and the following documents were attached to the report:-

- Appendix A - Application to Transfer Premise Licence pursuant to Section 42, Licensing Act 2003
- Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor pursuant to Section 37, Licensing Act 2003
- Appendix B - Representation and Additional Material from the Responsible Authority (Lancashire Constabulary – East Division)
- Appendix C - Email Sent by Donald Race & Newton, Solicitors
- Appendix D - Application Submitted by Mr. Mahmood Mudassar
- Appendix E - Letters Sent by Licensing Manager to Messrs. Azhar Iqbal, Mahmood Mudassar and Asif Jalil
- Appendix F - Email Exchange Between Police Sergeant Middleton and a Council Officer
- Appendix G - Copy of Existing Licence
- Appendix H - Copy of the Licensing Authorities ‘Conduct of Hearings Procedure’
- Appendix I - Copy of Additional Evidence / Information Received from Police Sergeant Middleton

The representation and additional material (Appendix B) had been submitted due to the Chief Officer of Police being satisfied that the exceptional circumstances of the case were such that granting the application(s) would undermine the Crime Prevention Licensing Objective.

Police Sergeant Middleton gave evidence in relation to the investigation carried out by the Police / Licensing Authority due to the uncertainty of who Messrs. Mahmood Mudassar and Azhar Iqbal actually were. The Police were unhappy with the uncertainty of who the holder of the premise licence was and who was authorising the sales of alcohol.

The Licensing Sub-Committee was requested to determine whether to grant or refuse the two applications, whilst bearing in mind the following facts:-

- (a) The objections and additional information submitted by Lancashire Constabulary and the evidence given by Police Sergeant Middleton.
- (b) The premises having failed a test purchase operation run by the Police and Lancashire County Council Trading Standards.
- (c) The failure of the Designated Premises Supervisor (Mr. Asif Jalil) to attend a meeting, without explanation, or to respond to phone calls / messages about the test purchase failure.
- (d) The Solicitor’s email suggesting that Mr. Azhar Iqbal had not submitted a previous application to transfer the premises licence to his name.

- (e) The abandonment of an application from Mr. Mahmood Mudassar to transfer the premises licence into his name, due to the uncertainty of who Messrs. Mudassar and Azhar Iqbal actually were.
- (f) In connection with a Police visit to an address in Burnley to speak to Mr. Azhar Iqbal, confirmation from Mr. Iqbal at that time that he had no involvement in the premises and had no idea why his name and address had been associated with the premises. The Mr. Azhar Iqbal at the Burnley address was not the male who had attended a meeting at Accrington Police Station on 16th June 2016 in regard to test purchase failure.
- (h) At no time had Licensing Officers met the contact person for EU General Traders Ltd (Mr. Awais Pervez).

Prior to a formal decision being made, the Licensing Sub-Committee sought legal advice on the validity of the applications.

Decision of the Sub-Committee:-

Resolved

- (1) That it be noted that in regard to the validity of the applications, the evidence presented indicated that the person named as the proposed transferor of the premises licence had never applied for the premises licence in question to be transferred to his name;**
- (2) That it be noted that the previous purported transfer of the licence to Mr. Azhar Iqbal was considered to be invalid as he did not satisfy the statutory criteria specified in Sections 42 and 16(1) of the Licensing Act 2003, namely that he was a person who carried on or proposed to carry on a business that involved licensable activities;**
- (3) That as the application under consideration had not been accompanied by the current premises licence as required by Section 42 (4) or a satisfactory explanation as to why it could not be obtained, the application to transfer the premise licence be rejected under Section 44 of the Licensing Act 2003 as none of the conditions specified in Section 44 (3) of the Act applied to the application;**
- (4) That the application to vary the premises licence to specify an individual as designated premises supervisor be rejected as the applicant was not the holder of the relevant premises licence; and,**
- (5) That in the light of the legal position that the Sub-Committee was not specifically required to address the submission of Lancashire Constabulary, it be noted that the Sub-Committee shared the Constabulary's concern about the manner in which the premises had been operated and would have upheld the objection.**

The reasons for the decision were outlined at the meeting and set out in the decision notice.

Signed:.....

Date:

Chair of the meeting
At which the minutes were confirmed