

17 January 2019

Licensing and Appeals Committee

**Licensing Sub-Committee Hearing in respect of an
Application to Transfer a Premises Licence
Licensing Act 2003**

THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ

Report of: Dave Leonard – Licensing Officer

Wards Affected: Brentwood West

This report is: Public

1. Executive Summary

- 1.1 An application has been received from Mr Badsha Miah to transfer the premises licence at ***The Raj, 21 Kings Road, Brentwood CM14 4DJ***. Essex Police have objected to the transfer on the grounds of the Prevention of Crime and Disorder.

2. Recommendation(s)

- 2.1 That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application for the transfer of the premises licence in line with either of the following options:

- **allow the application to transfer;**
- **reject the application to transfer.**

3. Introduction and Background

3.1 An authorisation is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

3.2 An appropriate authorisation is either, a premises licence, a club premises certificate or a Temporary Event Notice.

3.3 Licence holders are required, when offering any licensable activity, to ensure that they promote the licensing objectives at all times. The operating schedule of the application contains details of the activities applied for and the control measures that the applicant will have in place in order to promote these objectives. Such measures will, where appropriate, be converted into enforceable conditions on any licence issued.

3.4 The four licensing objectives are;

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

3.5 Any representation must be able to demonstrate that on the balance of Probability the application in its current form will fail to adequately promote one or more of the licensing objectives. No other matters may be considered.

3.6 Section 42 Licensing Act 2003, allows any person entitled to apply for a Premises Licence under 16(1) Licensing Act 2003, to make an application to transfer an existing Premises Licence to him.

3.7 The premises licence at ***The Raj, 21 Kings Road, Brentwood CM14 4DJ*** was previously held by Badsha Miah.

3.8 This application to transfer has interim effect until this objection is determined. This means that the transfer is allowed to take place temporarily until this objection is determined by this committee.

- 3.9 The current premises licence authorises the sale of alcohol for consumption by such a person as an ancillary to his meal on the premises:

Monday-Saturday 11.00 to 00.00 and Sunday 12.00 to 23.30

A copy of the premises licence, together with a plan of the premises and location map, is attached as **Appendix 2**.

4. The Application

- 4.1 On 7th December 2018, Badsha Miah submitted an online application with the intention to transfer the premises licence to Jetu Miah. A copy of the application to transfer the premises licence is attached as **Appendix 1**.
- 4.2 No application to vary the Designated Premises Supervisor, currently Badsha Miah, has been received. Mr Jetu Miah does not currently hold a Personal Licence but has since applied to this office for one on 15th December 2018.
- 4.3 The Licensing Act 2003 allows for the chief officer of police for the police area in which the premises are situated, if he is satisfied that the exceptional circumstances of the case are such that the granting of the application would undermine the crime prevention objective, to raise objection within 14 days of receiving the application.
- 4.4 On 17th December 2018, Essex Police submitted an objection to the premises licence being transferred to Jetu Miah on the grounds of the prevention of crime & disorder. The full objection & associated papers are attached as **Appendix 3**.

5. Reasons For Recommendation

- 5.1 These are the options available to the Sub-Committee as provided in the Licensing Act 2003.

6. Consultation

- 6.1 This application has been consulted on in accordance with the requirements of Licensing Act 2003.

7. Statement of Licensing Policy

- 7.1 There are no specific issues arising from this application in relation to the Council's Statement of Licensing Policy.

8. Relevant Sections of the Secretary of State's Guidance

- 8.1 The following Section 182 Guidance (8.101) relates to transfer applications; In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

9. Legal Considerations

- 9.1 The committee, after considering the application to transfer and the relevant objection, will need to consider to either:
- allow the application to transfer;
 - reject the application to transfer.
- 9.2 The decision made by the committee will take immediate effect; the chief officer of police may appeal against a decision to grant the application.
- 9.3 In determining this application to transfer the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 9.4 The Sub-Committee are advised that the hearing is of a quasi-judicial nature and representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 9.5 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.

APPENDICES TO THIS REPORT:

- 1 - Copy of the Application to Transfer the Premises Licence
- 2 - Copy of the Premises Licence, Premises Plan & Location Map
- 3 - Copy of Peter Jones' (Essex Police) Representation & associated papers
- 4 - Copy of Statement of Response from Badsha Miah
- 5 - Copy of Statement of Response from Jetu Miah

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