

Minutes

Licensing Sub-Committee Thursday, 17th January, 2019

Attendance

Cllr Haigh
Cllr Mrs Pound

Cllr Mrs Slade

Officers Present

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|----------------|---|---------------------------------------|
| Paul Adams | - | Principal Licensing Officer |
| Surinder Atkar | - | Planning Solicitor |
| Dave Leonard | - | Licensing Officer |
| Jean Sharp | - | Governance and Member Support Officer |

293. Appointment of Chair

Members resolved that Cllr Mrs Pound should chair the meeting.

294. Administrative Function

Members were respectfully reminded that, in determining the matters listed below; they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter would be determined on the facts before the Sub-Committee and the rules of natural justice would apply.

295. Declarations of Interest

There were none.

295. The Raj, 21 Kings Road, Brentwood. CM14 4DJ - Application for Transfer of Premises Licence

The application was brought before the licensing Sub-Committee for determination on 17th January 2018 following representations from a Responsible Authority (the Police).

The premises were currently a restaurant specialising in Indian cuisine situated in Kings Road, Brentwood and it was currently licensed for the Sale by Retail of Alcohol & Late Night Refreshment.

On 7th December 2018 the Applicant Badsha Miah submitted an online application with the intention to transfer the existing premises license to Jetu Miah. There was no application to vary the existing Designated Premises Supervisor who was Badsha Miah.

The Sub-Committee heard from Mr. Leonard of the Council's Licensing Department who explained the background to the application and stated to the Committee that the application was under the provisions of section 42 Licensing Act 2003.

The Sub-Committee then heard from Ms. Vicky Powell for the Police who advised there had been a raid at the relevant premises by the immigration services in November 2018 and 5 illegal workers were found to be working at the Restaurant. Serious immigration offences relating to unauthorised employment of illegal immigrants had been committed by the Restaurant owners. Shortly after the raid a fresh limited company had been set up by Badsha Miah. Mr. Badsha Miah had been the Designated Premises Supervisor for 13 years and prior to the raid there had been a previous incident in 2014 at the premises of a similar nature of employing illegal immigrants. Essex Police had commenced the process of reviewing the premises license following the latest raid. It was shortly after this that the transfer procedure had been commenced and it was the view of the Police that this was a cynical attempt to give the impression at the review hearing that because there had been a successful transfer that the new regime would be less likely to commit further offences. The fine for the immigration offences was likely to be in the region of £100,000.

Ms. Powell explained that there was clear proof that Jetu Miah was Badsha Miah's nephew and that the transfer was an attempt to avoid the consequences of the Immigration offences since Badsha Miah would remain DPS and therefore have effective control of the business. It also transpired that Badsha Miah had made the application to transfer.

The Sub-Committee then heard from Matthew Strickles who represented Jetu Miah. He stated that Badsha Miah wanted to assign his lease of the business and sell it on. He was a sole trader and could not escape the penalty imposed on him.

The Police in closing stated there was a danger of further offences. There was extra motive for this because economically it gave a financial advantage to the business to take on illegal labour and not pay any wages to them in order to reduce labour costs. The risk of detection was balanced against the financial advantage.

Mr. Strickles in closing stated that whether an applicant was a "fit and proper person" was not part of Licensing Law. His client gave his assurances that there would be no further offences. There was no evidence that further offences would be committed and so the transfer should be granted.

The Sub-Committee members felt that there was sufficient evidence to support the contention that the prevention of crime and disorder objective was engaged in circumstances that serious criminal offences in employing illegal immigrants had been committed. Shortly after the offences an application to transfer had been made to transfer to a relative whilst retaining control of the business as DPS. The evidence showed that section 44 (5) (b) (ii) applied and in order to support the “promotion of crime prevention” the Sub-Committee came to the conclusion that the application should be refused.