

1 May 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 Kalam Ullah 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 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.
- 3.2 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.
- 3.3 The premises licence at ***The Raj, 21 Kings Road, Brentwood CM14 4DJ*** was previously held by Badsha Miah.
- 3.4 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.
- 3.5 The current premises licence authorises the sale of alcohol for consumption by such a person as an ancillary to his meal on the premises. A copy of the premises licence, together with a plan of the premises & location map, is attached as **Appendix 2**.
- 3.6 On 5 December 2018, Essex Police applied to Review the premises licence under the statutory crime prevention objective that includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The decision of the subsequently convened Licensing Sub-Committee hearing on 24 January 2019 was to revoke the premises licence. An appeal against this decision was received on 13 February 2019 and a hearing date awaits.
- 3.7 On 12 February 2019, Kalam Ullah submitted an online application with the intention to take transfer of the premises licence from Badsha Miah. On 25 February 2019, Essex Police submitted an objection to the premises licence being transferred to Kalam Ullah on the grounds of the prevention of crime and disorder. A Licensing Sub-Committee Hearing was convened on 22 March 2019 and the application was refused. A copy of the application to transfer the premises licence together with the Decision Notice is attached as **Appendix 5**.

4. The Application

- 4.1 On 22 March 2019, Kalam Ullah submitted a further online application to take transfer of the premises licence from Badsha Miah. A copy of the application to transfer the premises licence is attached as **Appendix 1**.

- 4.2 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.
- 4.3 On 1 April 2019, Essex Police submitted an objection to the premises licence being transferred to Kalam Ullah on the grounds of the prevention of crime and disorder. The representation is attached as **Appendix 3**.
- 4.4 On 28 March 2019, the Home Office (Immigration Enforcement) submitted an objection to the premises licence being transferred to Kalam Ullah on the grounds of the crime prevention objective, including the prevention of illegal working and immigration crime. The representation is attached as **Appendix 4**.

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 Sections 182 Guidance relates to transfer applications;

(8.101) 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.

(8.102) Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement).

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 Licensing Sub-Committee may under Section 44
- (5)(b)(i) reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, or
- (5)(b)(ii) reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so
- 9.3 The decision made by the committee will take immediate effect; the chief officer of police may appeal against a decision to grant the application. The applicant may appeal the decision to refuse the application.
- 9.4 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.
- 9.5 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.
- 9.6 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:

- Appendix 1 - Copy of the Application to Transfer the Premises Licence
- Appendix 2 - Copy of the Premises Licence, Premises Plan & Location Map
- Appendix 3 - Copy of Peter Jones' (Essex Police) Representation
- Appendix 4 - Copy of Home Office (Immigration Enforcement) Representation
- Appendix 5 - Copy of the Application to Transfer the Premises Licence 12/02/19
Plus Licensing Sub-Committee Hearing 22/03/19 Decision Notice

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