

Minutes

LICENSING SUB-COMMITTEE

24 July 2018



Meeting held at Committee Room 5 - Civic Centre, High Street,
Uxbridge

	<p>Committee Members Present: Councillor Roy Chamdal (Chairman) Councillor Teji Barnes Councillor Janet Gardner</p> <p>LBH Officers Present: Anisha Teji, Democratic Services Officer Beejal Soni, Legal Advisor Steven Dormer, Licensing Officer</p> <p>Respondents Present: Mr Varyam Singh Chopra, Applicant Mr Panchal, Licensing Agent</p> <p>Responsible Authorities Present: PC Emly Mitchell, Metropolitan Police Stephanie Waterford, Licensing Service</p>
6.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
7.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
8.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items would be heard in part I.</p>
9.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
10.	<p>APPLICATION FOR A NEW PREMISES LICENCE : CK FOOD & WINE (<i>Agenda Item 5</i>)</p> <p><i>Introduction by Licensing Officer</i></p> <p>Steven Dormer, Licensing Officer at London Borough of Hillingdon introduced the report, photographs and addendum relating to an application for a premises licence in respect of CK Food and Wine, 153 North Hyde Road, Hayes, UB3 4NS.</p>

Mr Dormer drew the Committee's attention to the report in the agenda pack and provided the Committee with a verbal summary. He explained that the license was previously reviewed and revoked on February 2018 by the Sub Committee. A further application was submitted for the same site and refused on 23 April 2018. The licence revoked on 20 February 2018 was being appealed to the Magistrates Court.

The applicant was invited to attend a meeting with the licensing authority to ascertain if there was a clear separation from the previous regime. The licensing authority had also requested documentation to prove that this was a genuine purchase of the business. The only evidence provided was a lease of an agreement on the grant of premises licence, which was included in the addendum pack.

Representations were received from two responsible authorities, who both had similar concerns. Mr Dormer also drew the Committee's attention to the legal comments and relevant case law in the agenda pack.

Mr Dormer made a recommendation that the Sub Committee refuse the premises licence having regard to the Government's guidance issued under s182 of the Licensing Act 2003.

Representations by the Applicant

Mr Panchal, on behalf of the applicant Mr Varyam Singh Chopra, submitted representations to the Sub Committee.

Mr Panchal submitted that the application had been made by a businessman who dealt with properties, imports and wholesale businesses. During the process of the application, Mr Chopra was away on a business trip and he was therefore unable to attend the meeting arranged with officers. Mr Chopra was due to return to the UK on 28 June 2018 when the consultation was going to end on 29 June 2018.

Mr Panchal told the Sub Committee that Mr Chopra was offered the leasehold of this business. Mr Chopra sat for the personal licence course on 23 May 2018, the application was put to the London Borough of Ealing and it was received late on 23 July 2018. Mr Chopra understood what had happened in the past and did not want to repeat any actions. He registered the business for VAT, changed the branding of the business and renamed the business to CK Food and Wine Ltd. Mr Panchal highlighted the addendum which proposed some conditions and explained how the licensing objectives would be carried out, making reference to posters and a training manual. Mr Chopra addressed the Committee and apologised for not being around to attend the meeting with officers. He understood the previous issues and although he had experience in other businesses, he was new to retail. Mr Chopra said that he would employ three to four members of staff as there were long shifts from, he understood the minimum pay requirements and he would purchase from cash and carries as they were VAT registered. Mr Chopra stated the four licensing objectives for the Committee.

In response to Member clarification questions, Mr Chopra confirmed that he was new to the retail business and was aware of the history of this premises. The Chairman suggested that this was a tainted business and the responsible authorities had not received all information to process this application. Mr Chopra confirmed that when he met Mr Bhatia, the landlord, Mr Bhatia told him about the history of the previous people in the premises and how the licence was revoked. Mr Chopra then decided to go ahead and apply for the premises licence. Mr Chopra confirmed that he was not related to the previous owners and, once the licence was granted he would then make a decision on

what would happen to the existing staff.

The Legal Advisor, Ms Beejal Soni, asked Mr Panchal whether he was also representing Mr Sachdeva, the current premises user, and he confirmed that he was only acting for Mr Chopra. Mr Sachdeva only consulted him for advice. Mr Panchal confirmed that if the licence was granted today, Mr Sachdeva would be advised to withdraw his appeal as Mr Chopra would be the new owner of the shop. Mr Panchal also advised that Committee that Mr Chopra only liaised with Mr Bhatia as the free holder of the property and assured the Sub Committee that Mr Bhatia would terminate Mr Sachdeva's lease if Mr Chopra was granted the licence today.

In response to the Chairman's questions, Mr Panchal confirmed that the business was currently up for sale. Mr Chopra was questioned on how he would bar Mr Sachdeva and Mr Kapoor from the premises and he said that they could not be on the premises. Mr Chopra reiterated that they were not related. Mr Chopra also said that he had the original copy of the letter from his solicitors Shergill and Co and the letter was dated 3 July 2018.

Representation by Responsible Authorities: the Metropolitan Police

PC Emly Mitchell, Metropolitan Police, addressed the Committee in the absence of PC Dave Butler. PC Mitchell explained that the police had not yet seen sufficient evidence that demonstrated that the application was independent from the current premises users. She submitted that Mr Chopra was not aware of the costs of the shops, there were no contracts and there was nothing to show that they were independent purchasers of the business. There was also no indication who the DPS was.

Representation by Responsible Authorities: the Licensing Authority

Stephanie Waterford, Licensing Authority, addressed the Committee. Ms Waterford explained that Mr Chopra's application was standard in terms of how a premises should operate, met the licensing objectives and the proposed conditions suggested that reassurance could be offered that the premises would operate in accordance with the licensing objectives. However, Ms Waterford submitted that, after hearing from Mr Chopra today, she was unconvinced that he had any awareness of the objectives and could explain them. Ms Waterford submitted that the solicitor's letter was also presented previously in another case back in April 2018.

Ms Waterford told the Sub Committee that she had not been able to meet with Mr Chopra as he was away and she was there for unable to ascertain that this is a legitimate transfer of business. Mr Sachdeva was appealing his license and the hearing is listed for next week therefore he has been able to operate the business as usual. She submitted that she was being asked to consider two views; specifically that on the one hand Mr Sachdeva was appealing to keep his livelihood and on the second hand, that Mr Chopra wanted to start a new business on the premises. She suggested that this application was merely an attempt to continue activities from the premises regardless of who held the licence. In light of this, Ms Waterford invited the Committee to refuse the application.

In response to Members' clarification questions, Ms Waterford confirmed that the consultation was sent out on 4 June 2018 and contact would have been made with the agent on or around that date. Information would have been requested in relation to accounts, VAT registration and the transfer of lease. There was no response from either Mr Panchal or Mr Chopra, save for the items in the addendum which were sent over approximately a week or two ago. The exact date was unknown.

Discussion

During the Sub Licensing Committee's discussion, the following points were noted:

- Mr Panchal said that he was in communications with the licensing authority regarding the meeting with officers. Mr Chopra was not in the country and left on 17 June 2018. He returned on 28 June 2018 and as soon as he arrived documentation was sent.
- Ms Waterford did not dispute the date but said that there had been three weeks since Mr Chopra's return and limited information had been provided, save for the documents in the addendum.
- It was suggested that Mr Chopra was aware of the case law and the need to provide full information and promote the four licensing objectives.
- It was confirmed that the application was submitted on 3 June 2018. Consultation went carried out on 4 June 2018. There was a consultation period and Mr Chopra left on 17 June 2018. It was questioned why Mr Chopra has not provided the necessary information before he left and Mr Panchal told the Sub Committee that Mr Chopra was made aware to provide information but a lot of the information was not ready.
- Mr Chopra explained to the Committee how he would purchase the premises and reiterated that he would only be dealing with the Mr Bhatia.
- The Committee stressed the importance of providing full information and facts when making determinations.
- It was clarified that Mr Bhatia is the freeholder of the property.
- The purchase of the stock would be made via a cheque to the free holder of the premises. The estimated value of stock was £20 – 30k.
- Bread baskets were noted in the displays on page 26 of the agenda pack. Officers confirmed that enforcement action in relation to this would be taken under separate legislation.
- The DPS of the premises would be Mr Chopra. When questioned about whether the police had the chance to properly vet Mr Chopra, Mr Panchal responded that a personal licence could only be granted if there was no criminal record. Mr Panchal submitted that the onus was on the police to check that the licence was suitable.
- PC Mitchell confirmed that the police had not checked this application as it went through to the London Borough of Ealing, the hearing was going through today and there had been no opportunity to meet Mr Chopra to ascertain the suitability.
- PC Mitchell clarified that a personal licence and a DPS were two separate things and there would be two separate checks. PC Mitchell explained that when anyone applied for a personal licence, the relevant Borough would conduct the necessary checks. In Hillingdon, when there was a new application for a premises licence, a separate check would be undertaken regardless if the applicant already had a personal licence. If there were any abnormalities, a call or meeting would be arranged.
- During the hearing, PC Mitchell confirmed that she had checked the police log and stated that only one application for a DPS transfer had been made and Mr Chopra's name was not on it. From the police's perspective nothing had been done.
- Mr Panchal confirmed that Mr Chopra received his personal licence on 23 July 2018 at night, as there was a backlog in Ealing Council. Mr Chopra sat for his exam on 23 May 2018. Mr Panchal explained the process and said that once the certificate from BIA was received, he would apply for police clearance which usually took about one and a half weeks.

Closing submissions

Ms Waterford noted that there were shortcomings in the information presented to the Committee and submitted that the application be refused.

PC Mitchell submitted that the application should be refused as there was no documentation to satisfy the police that the application was independent.

Mr Dormer raised concerns about the feasibility of condition e in the proposed conditions listed in the addendum.

Mr Panchal submitted that Mr Chopra is an independent businessman. He noted that applications could run concurrently and that it took some time for Ealing Council to issue the licence. He assured the Committee that once the business was sold; neither Mr Sachdeva nor Mr Kapoor would have anything to do with the premises. He reiterated that this was a genuine sale.

Mr Chopra submitted that he would try his best to run the business and if the licence was granted he would prove that.

Committee Deliberation

All parties were asked to leave the room while the Sub-Committee considered its decision. The hearing adjourned for deliberations.

Hearing resumed

The hearing resumed to allow the Committee to ask Mr Chopra further questions to aid its decision making.

When the hearing resumed, the Chairman questioned how Mr Chopra would comply with the licensing objectives. Mr Chopra responded that he would try his best to do business properly and be honest. He would contact the Council, the police and Mr Panchal to get directions.

When questioned how Mr Chopra would specifically comply with the licensing objective he responded that he would ask his family members to help him and act properly. He noted how the previous people did wrong but was going to try his best to not let this happen.

When told to think about one licensing objective, Mr Chopra said that he would not sell to underage people and check their age. He would keep a registered and record of people drunk or underage people to not to sell to them.

When asked what the age limitation for alcohol and training was, Mr Chopra confirmed that he would ask staff to check his ID and check the age. He would use driving licence, passport and photo IDs as identification. This was help the prevention of crime and disorder. When question about the other licensing objectives, Mr Chopra mention people and safe children from hard and public nuisance. When questions as to how he would support this objectives, Mr Chopra said he could do it step by step and check properly.

Committee Deliberation

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

The Decision

The Sub-Committee has considered all the relevant evidence made available to it and in doing so has taken into account the Licensing Act 2003 objective to prevent public nuisance and Crime and disorder, Paragraph 8.47 of the Guidance issued by the Secretary of State under Section 182 of the Act.

The decision of the Sub-Committee is to refuse this application.

Right of Appeal

No decision made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

The Sub-Committee advises as a comfort to residents and a warning to the licensee that the licence may be reviewed and could potentially be revoked if licence conditions are not adhered to and/or if the premises are managed in a manner which does not uphold the licensing objectives

The relevant applicant for the premises licence or any other person who made relevant representations to the application may appeal against the Council's decision to the Justice Clerk at the Uxbridge Magistrates Court. Such an appeal may be brought within 21 days of receipt of this Notice of Decision.

The applicant will be deemed to have received the Decision Notice, one day after the date on the accompanying letter, which will be posted by 1st class mail.

The meeting, which commenced at 10.00 am, closed at 12.01 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Anisha Teji on 01895 277655. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.