

Minutes

Alcohol, Entertainment & Late Night Refreshment Licensing Committee

Wednesday, 24 April 2024



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Elvis Stooke (Vice-Chairman)
Councillor Harrish Bisnauthsing
Councillor Helen Crawford
Councillor Paul Fellows
Councillor Robert Leadenham
Councillor Nikki Manterfield

Officers

Licensing Officers (Chris Clarke, Elizabeth Reeve)
Legal Advisor (Mandy Braithwaite)
Licensing Manager (Heather Green)
Democratic Officer (Lucy Bonshor)

The Vice-Chairman stated that the Committee's thoughts and prayers were with the Chairman of the Committee, Councillor Pam Bosworth at this sad time as her husband had passed away at the beginning of the week.

45. Apologies for absence

Apologies for absence had been received from Councillor Pam Bosworth, Councillor Steve Cunnington, Councillor Patsy Ellis and Councillor Jane Kingman.

46. Disclosures of interests

None disclosed.

47. Minutes of the meeting held on 11 December 2023

The minutes of the meeting held on 11 December 2023 were proposed, seconded and **AGREED**.

Exclusion of Press and Public

Due to the restricted papers appended to the report the Committee were

advised that if they wished to discuss these in detail then the Committee would need to exclude the press and public in accordance with Section 100A (4) of the Local Government Act 1972 (as amended) during consideration of the item of business because of the likelihood that otherwise exempt information, as described in paragraph (1 & 2) of the Act (as amended) would be disclosed to them. It was proposed, seconded and AGREED to exclude the press and public.

Councillor Tim Harrison was in attendance at the meeting as he had intended to substitute for Councillor Steve Cunnington, however, as it was an Alcohol, Entertainment and Late Night Refreshment Licensing Committee substitutions were not allowed and Councillor Harrison remained as an observer.

The Legal Advisor was about to address the Committee regarding the restricted papers appended to the report and the provision in the Constitution, ensuring that Members of the Committee were content with the non-Committee Member remaining in attendance during consideration of the item but at this point Councillor Harrison left the meeting and did not return.

48. Licensing Act 2003: Application to transfer a Premise Licence - The Old Ship Inn, 22 High Street, Pointon, Sleaford, Lincolnshire, NG34 0LX.

Decision

To reject the transfer of the Premise Licence 5065 for The Old Ship Inn, Bombay Brasserie, 22 High Street, Pointon, Sleaford.

The Legal Advisor introduced those present and confirmed who would be speaking in respect of the application. Representatives were present from the Police and also on behalf of the Premises Licence in respect of the transfer to Chak27.

The Licensing Officer presented the report which concerned the transfer of a premise licence 5065 for The Old Ship Inn, 22 High Street, Pointon, Sleaford.

The application to transfer the premises licence was received on 12 March 2024. Section 43 of the Licensing Act 2003 provided a mechanism which allowed the transfer to come into immediate effect as soon as the Licensing Authority received it, until it was formally determined or withdrawn. The applicant had indicated on the application that it was for immediate effect. Statutory consultations were undertaken and during the consultation period one representative was received from Lincolnshire Police as shown within the appendices attached to the report.

Section 182 Guidance issued by the Home Office relating to the transfer of premises licence stated:

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.

The Police then made their representation and referred to the exceptional circumstances provided for in Section 182 of the Home Office Guidance.

The visit to the premises where an illegal worker was found and what was said by the worker in relation to working at the premises and the fact that he had no right to work. The premises was made up of the Old Ship Inn public house and the Bombay Brasserie restaurant and the previous premises licence covered both businesses although they were accessed by the public by separate doors. The Police alleged that the Manager of the Bombay Brasserie knowingly employed someone who had no right to work in the Country and whose living conditions above the premises were cold and damp. At the time of the visit, it was noted that the conditions attached to the premise licence that was currently being used was not fit for purpose and that there were breaches to the conditions including no CCTV and no training records. The person who had been working behind the bar at the time of the visit was only 17 years of age. Reference was then made to the Premises Licence and the previous owners of the licence and the sub-letting of the premises and the offences for not having a valid premises licence in place.

The Police then spoke about what they saw as the links between the current Manager of the Bombay Brasserie and the Director of the new company Chak27 and who had the responsibility of running the business. Reference was made to another Bombay Brasserie that was situated in Boston and which was run by the Manager at the premises in Pointon at which more illegal workers had been found. The Police asked the Committee to reject the transfer of the premise licence due to the undermining of the licensing objectives.

The Manager of the Bombay Brasserie situated at the Ship Inn, Pointon then made his representation and spoke about the takeover of the business from the previous owners and how quick the takeover had taken place which had been around the time of the visit by the Police and what he had done and the notifications to the Licensing Officer. He stated that the ownership of Chak27 was different to the premises in Boston. He stated that he had received a letter from the Home Office stating that he was not liable and there was no penalty. He made reference to how the Bombay Brasserie and the Old Ship Inn would be run and that a previous ex landlady of the Old Ship Inn would be taking over as the DPS. He indicated that the previous premises licence holder had been happy for them to carry on the businesses under the old licence, he had not had any intention of doing anything wrong. He stated that he had not been aware of the requirements in respect of CCTV or the relevant poster required by the premise licence and these were now in place together with training. Reference was also

made to further conditions on the licence in respect of under 14 and leaving the premises by 9pm.

Members asked questions in respect of the employment of an illegal worker, the payment of NI and tax and the facts and knowledge that a premises licence holder should be aware of even before they applied for a licence.

Further questions were asked by the Police in respect of right to work checks of employees, what training had been carried out, what involvement the new director of Chap27 would have with the business and the proposed new DPS.

The Legal Advisor informed the Committee that the options available to them were to either accept the transfer of the premise licence or reject the transfer of the premises licence.

The Police then made their closing statement referring the Committee to the evidence that had been put forward which included the lack of compliance with conditions prior to the visit by the police, that a 17 year had been employed behind the bar at the time of the visit, the employment of an illegal worker and they asked the Committee to reject the transfer of the premise licence as they felt that the licensing objectives would not be upheld.

The applicant had nothing to add in respect of a closing statement.

(10:45 Licensing Officers, Police and applicant left the meeting)

The Committee considered the transfer of the premise licence having regard to all relevant guidance under the Licensing Act 2003 and policies including the Council's Statement of Licensing Policy together with the representations made. The Committee were concerned about how the premise was being run and the findings when a visit had been undertaken by the Police and the breaches that had been occurring in respect of the Premise licence. The Committee acknowledged that the issues in relation to the CCTV and training had been addressed. The Committee considered the information that had been presented by the Police and also what had been said by those present in respect of the premises and the transfer of the premises licence to Chak27 and links between the parties present. Members felt that on the information before them that the transfer of the premises licence be rejected. On being put to the vote this was **AGREED**.

(10:55 Licensing Officers, Police and applicant returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had considered the application for the transfer of a premises licence to Chak27 Ltd for The Old Ship Inn, Bombay Brasserie, 22 High Street, Pointon Sleaford NG34 0LX.

The Committee had taken into consideration the report and appendices and verbal evidence presented by both parties together with the Licensing Act 2003 and Regulations made under it, the Guidance issued under Section 182 of the Licensing Act 2003 and the Councils Statement of Licensing Policy.

The Committee accepted that exceptional circumstances were required for the Police to object to a transfer application. The Police stated that this was an exceptional circumstance and to reject the application if it considered it appropriate for the promotion of the crime prevention objective to do so.

The Police rely on matters and evidence referred to in the notice of objection to the transfer of the premises licence and had put evidence forward that the person in control of the premises employed a chef who was not entitled to work and this person is linked to Chak27 Ltd - the applicant for the transfer.

The Committee had carefully considered the grounds for the objection notice. The applicant explained the running of both the Old Ship Inn and Bombay Brasserie, (two business models) and events that took place more recently in relation to changes in ownership and change of DPS. The Committee noted that issues in relation to CCTV had been addressed and training records were on the premises.

This was not a review hearing it was simply a matter for the Committee to either accept or reject the transfer application with no power to consider adding conditions to address any concerns. There was nothing to prevent any party in due course applying for a new licence at the premises.

From the evidence before them, the Committee concluded that there was a link between the applicant's company and the person in control of the premises. The Committee rejected the application for the transfer of the premise licence as they considered it was appropriate to do so, for the promotion of the crime prevention objective.

There was a right of appeal to the Magistrates Court. Any appeal must be commenced by notice of appeal given by the Appellant to the Magistrates Court within 21 days beginning with the day on which the Appellant was notified by the Licensing Authority of the decision appealed against.

49. Any other business which the Chairman, by reason of special circumstances, decides is urgent.

None.

50. Close of meeting

The meeting closed at 11:00am.