

Minutes of a meeting of the Licensing and Appeals Committee

Held at 2.30 pm on Friday 13 August, 2021 in the Committee Room, Swanspool House, Wellingborough, NN8 1BP

Present:

Members:

Councillor Jonathan Ekins (Chair)
and Councillor Lora Lawman

Councillor Jennie Bone (Vice-Chair)

Officers:

Amanda Wilcox (Interim Environmental Health Lead), Louise Delavaloire (Legal Adviser) and Carol Mundy, Senior Democratic Services Officer (Committees/Members).

15 Apologies for non-attendance

RESOLVED to note there were no apologies

16 Members declarations of interest

RESOLVED to note there were no declarations made

17 Notifications of requests to address the meeting

RESOLVED to note that PO Tracey and Mr Poori would address the meeting

18 Application to transfer premises licence and vary the named designated premises supervisor

The circulated report of the assistant director of regulatory services was received following receipt of an application to transfer the premises licence and vary the name of the designated premises supervisor (DPS) for Rogalik, 51 Midland Road, Wellingborough.

A representation had been received from Northamptonshire Police against the transfer and variation of the licence.

The Interim Environmental Health Lead, Mrs Wilcox, detailed the procedure for the hearing and then presented the report to the sub-committee. She explained that during the consultation period the Police had submitted an objection to the granting of the application on the grounds that the licensing objective, as prescribed by section 4(2) of the Licensing Act 2003, of the prevention of crime and disorder, would not be met. Full details of the objection were contained within appendix B to the report.

Mrs Wilcox explained the background to a previous licensing sub-committee decision from 19 October 2020, relating to the premises. HM Revenue and Customs (HMRC) along with the Police visited the premises in March 2020, to investigate the illegal sale

of cigarettes, where duty had not been paid thereon. The applicant had been present during the visit. A further test purchase in April 2020 was conducted, when again cigarettes were sold to a plain clothes police officer, without duty having been paid on them. The premises licence holder and DPS had submitted an appeal to the Magistrates Court, such appeal hearing had yet to be heard and the outcome was therefore pending.

In the opinion of the police the application to transfer the premises licence and vary the DPS to the applicant, who had been managing the premises would undermine the crime and disorder objective.

The chairman thanked Mrs Wilcox for her presentation.

The chairman asked PO Tracey if she wished to address the meeting in relation to the police's representation.

PO Tracey confirmed the facts of the previous incidents in 2020, which had been the subject of the licensing sub-committee in October 2020, as reported by Mrs Wilcox. She had been the plain clothes officer who had carried out the test purchase when she had been sold Russian cigarettes. Mr Poori had been present on two occasions when HMRC and the Police had visited in March 2020 and again when she had purchased the cigarettes. The police had no confidence that the licensing objective of the prevention of crime and disorder would be met should the transfer and variation be approved.

The chairman then addressed the applicant, Mr Poori and explained that the sub-committee would ask questions of him which he should respond to. Mr Poori said he had limited understanding of the English language but would do his best to respond.

The chairman asked him to clarify that he had been present at on the two occasions that the police had visited the premises and whether he had been aware of the sale of contraband goods on the premises.

Mr Poori responded that whilst he had been present, he was unaware that the duty had not been paid on the cigarettes.

Cllr L Lawman asked him to clarify that he was the key holder and that he knew that there was a 'hide' in his office that led to the alleyway where people could obtain the illegal purchases.

Mr Poori responded to say that he was a key holder and was at the premises but was not aware of the 'hide'. He took over the premises in November 2019 and leased the building under a lease agreement but was unable to tell the sub-committee the full name of whose name the lease was in and who he paid rent to.

The chairman asked Mr Poori, when he signed the lease, if he had been given a plan of the premises. Mr Poori did not recall seeing a plan.

He was also asked if he had previously worked at the premises and whether he knew of the 'hide'. He responded to say that he had worked at the premises but that he knew nothing about the 'hide'.

He was asked to clarify which employee was on duty when the test purchase had been carried out. He responded to say he was not aware.

He was again asked to clarify that he was present at the premises on 3 March 2020 and that he had been in the office when HMRC and the Police arrived. He confirmed that was the case.

The chairman then asked Mr Poori about the steps he had put in place to ensure that there would not be a similar incident in the future.

Mr Poori said that he was always present at the shop as it was his sole place of work and that he carried out bag checks on the staff and was always in control of what was sold.

The chairman then asked what connection Mr Tanna had to the premises. Mr Poori explained that he had made a payment to Mr Tanna, to act as the designated premises supervisor and premises licence holder on his behalf as he did not hold a personal licence. The intention had been for Mr Tanna to transfer the licence to him in due course.

Councillor L Lawman asked Mr Poori if he had other businesses located in Leicester. Mr Poori confirmed that he had sold all his other business to concentrate on Rogalik in Wellingborough.

The chairman asked Mr Poori if he understood what a designated premises supervisor (DPS) and licence holder (LH). Mr Poori responded to say that the DPS and LH would have full responsibility for anything that went on at the premises, and for the goods that were sold. The chairman then asked if that meant that Mr Tanna would have known about the 'hide' and that illegal goods were being sold. Mr Poori said he was unsure.

Councillor Bone asked what had happened to the 'hide'. Mr Poori responded that when he had been made aware of it that it had been bricked up immediately.

He was also asked why a key found on his keyring fitted the outside of the 'hide' if he was not aware of its' existence. Mr Poori said he had been given all the keys when he took on the lease and didn't know what all of them were for.

The chairman asked why it had taken so long for the transfer process for the licence to commence. Mr Poori explained that he had found it very difficult to do this on-line and wanted to complete it in person but had been delayed due to the Covid pandemic.

Councillor Bone asked him whether he understood what the duties of a premises licence holder and designated premises supervisor were and asked him to confirm why he considered he was a fit and proper person to hold such roles. Mr Poori confirmed that he did understand what this entailed and that he was able to comply with the requirements.

The police officer sought permission from the chairman to ask Mr Poori if he could tell the sub-committee what the four licensing objectives were.

Mr Poori responded and said it was to look after everything, though he didn't know the objectives and said he did not understand the question.

The chairman reminded Mr Poori that it was imperative that he knew and understood the rules and the law around the licensing objectives and what a designated premises supervisor and premises licence holder had to do.

There were no further questions and the chairman asked Mr Poori if he considered he had received a fair hearing, to which Mr Poori responded and said he had. The chairman adjourned the meeting at 4.10pm.

The chairman reconvened the meeting at 4.40pm.

DECISION:

RESOLVED that the sub-committee unanimously decided not to grant the application to transfer the premises licence and not to grant the application to vary the designated premises supervisor.

REASONS FOR DECISION:

In reaching its decision, the sub-committee had regard to, and took into consideration, the following:

- The report from Amanda Wilcox, Interim Environmental Health Lead;
- Representation of Mr Poori;
- Representation of Sandy Tracey for Northamptonshire Police;
- Statement of Licensing Policy;
- The Licensing Act 2003
 - Section 182 Licensing Act Guidance

It is the duty of the sub-committee to make a determination on the balance of probabilities.

The sub-committee carefully considered the representations made by all parties and also gave due regard to all the above documents in reaching its decision.

The police representation gave rise to the consideration of the crime and disorder licensing objective. The sub-committee took into consideration the historic allegations of the sale and storage of illegal tobacco and Mr Poori's presence when the allegations were made. The panel view the sale and storage of illegal tobacco as a serious criminal activity in line with the guidance available to them.

The applicant failed to provide any assurance that significant management controls have been put in place to uphold the licensing objective in relation to the prevention of crime and disorder and so could not satisfy the sub-committee that he would have reasonable control over the premises.

The applicant acknowledged that he was aware of what his responsibilities as a premises license holder and designated premises supervisor would be, however he was unable, when asked, to state what the four licensing objections were. This demonstrated a worrying lack of basic knowledge.

The sub-committee was not satisfied that the applicant had sufficient mitigation in place to ensure effective promotion of the licensing objectives or that he would be a fit

and proper person to hold a premises license or be the designated premises supervisor.

19 Close of meeting

The chairman closed the meeting at 4.45pm

Chair

Date