

Start: 10:00am
Adjourned: 10:40am
Reconvened: 11:10am
Adjourned: 11:10am
Reconvened: 11:30am
Adjourned: 11:35am
Reconvened: 11:45am
End: 11:50am

GENERAL LICENSING SUB-COMMITTEE
17 July 2018

Present: Councillors Pegg, Hussain and Cooper
Officers: Lucie Keeler (Legal Services), Sandra Mansell (Licensing Team Leader)

06/18 Appointment of Chair

Resolved to appoint Councillor Pegg as Chair of the General Licensing Sub Committee.

07/18 Apologies

There were no apologies for absence received.

08/18 Late Items to be Introduced by the Chair

There were no late items.

05/18 Declarations of Interest

There were no declarations of interest.

06/18 Application for the transfer of a premises licence at Zielona Zabka, 15 – 17 Sinfin Lane, Derby, DE24 9GP

The Sub-Committee considered an application for transfer of the premises at Zielona Zabka, 15-17 Sinfin Lane, Derby, DE24 9GP.

The Sub-Committee heard evidence from Sandra Mansell (Licensing), PC Suiter (Derbyshire Constabulary) and Ewelina Latif (Applicant) and took into account the objection notice received and the written documentation received.

Sub-Committee made the following findings of fact:

- (a) That the individual to be specified, Ewelina Latif, was a personal licence holder gaining her licence in February 2018.
- (b) That there was an objection from Derbyshire Constabulary, a responsible authority, in accordance with section 42(6) of the Licensing Act 2003, that the application will undermine the crime and disorder objective.
- (c) That the applicant and current Premises Licence Holder were a married couple.
- (d) That Mr Latif had had his personal licence suspended for three months following a prosecution for illicit tobacco in 2018 from the premises, with him previously being prosecuted for illicit tobacco and non-duty paid alcohol in the premises in 2016.
- (e) That the applicant worked within the premises on a day to day basis and was aware of the sale of illicit tobacco taking place and on balance it appeared that case that Mr Latif would still be the controlling mind behind the premises.

DECISION

In making its decision, the Sub-Committee had regard to the Derby City Council Licensing Policy, the guidance issued under section 182 of the Licensing Act 2003 and the Human Rights Act 1998, and has carefully considered all the evidence presented to it.

The Sub-Committee made this decision to promote the 4 Licensing Objectives:

- (a) Prevention of crime and disorder;
- (b) Public Safety;
- (c) Prevention of Public Nuisance;
- (d) Protection of Children from harm.

The Sub-Committee **RESOLVED** to **REFUSE** the application for the transfer of the premises licence for Zielona Zabka, 15-77 Sinfin Lane, Derby, DE24 9GP from Rizgar Latif to Ewelina Latif.

The reasons for this decision are as follows:

Having taken into account the Licensing Act 2003 and in particular the crime prevention objective, the amended guidance issued under section 182 of the Licensing Act 2003, the Council's licensing policy and the Human Rights Act, the Sub-Committee sought to balance the interests of the applicant and the representations made by the Derbyshire Constabulary.

In considering the individual circumstances of the application, the Sub-Committee had regard to all the evidence and decided that it had heard nothing which was so exceptional and compelling to persuade it that it would be right to grant the application. In particular, having regard to the applicant's clear lack of knowledge of the four licensing objectives,

there are significant concerns that, at source, she is unable to uphold principles that she is unaware of. On balance, it was also of concern that the applicant, while she working at Zielona Zabka previously, she was aware and had knowledge of the sale of illicit tobacco within Zielona Zabka yet did nothing to stop it. The sub-committee on balance have concerns with her management capabilities that she would be unable to exert effective management over the premises given she did nothing before to stop the criminality.

The Sub-Committee was not satisfied that the applicant has satisfactorily demonstrated that she was now in possession of the knowledge, expertise or ability now to enable her effectively discharge the functions of a premises licence holder. Her admission of knowledge of the criminality which took place at the premise only serves to emphasise the overall concerns about her unsuitability to hold a licence.

07/18 Application for the variation of a premises licence to specify an individual as designated premises supervisor at Zielona Zabka, 15 – 17 Sinfen Lane, Derby, DE24 9GP

The Sub-Committee considered an application for a variation of a premises licence to specify an individual as Designated Premises Supervisor at Zielona Zabka, 15-17 Sinfen Lane, Derby, DE24 9GP.

The Sub-Committee heard evidence from Sandra Mansell (Licensing), PC Suiter (Derbyshire Constabulary) and Ewelina Latif (Applicant) and took into account the objection notice received along with the written documentation received.

Sub-Committee made the following findings of fact:

- (a) That the individual to be specified, Ewelina Latif, was a personal licence holder having gained that licence in February 2018.
- (b) That there was an objection from Derbyshire Constabulary, a responsible authority, in accordance with section 37(5) of the Licensing Act 2003, that the application would undermine the crime and disorder objective.
- (c) That the applicant and current Designated Premises Supervisor and holder of the Premises licence were a married couple.
- (d) That Mr Latif currently had had his personal licence suspended for three months following a prosecution for illicit tobacco from the premises with him previously being prosecuted for illicit tobacco and non-duty paid alcohol in the premises in 2016.
- (e) That the applicant worked within the premises on a day to day basis and was aware of the sale of illicit tobacco taking place and on balance it appears that Mr Latif would still be the controlling mind behind the premises.

DECISION

In making its decision, the Sub-Committee had regard to the Derby City Council Licensing Policy, the guidance issued under section 182 of the Licensing Act 2003 and the Human Rights Act 1998 and carefully considered all the evidence presented to it.

The Sub-Committee RESOLVED to **REFUSE** the application for a variation of a premises licence to specify an individual as Designated Premises Supervisor at Zielona Zabka, 15-17 Sinfin Lane, Derby, DE24 9GP.

The reasons for this decision are as follows:

Having taken into account the Licensing Act 2003 and in particular the crime prevention objective, the amended guidance issued under section 182 of the Licensing Act 2003, the Council's licensing policy and the Human Rights Act, the Sub-Committee sought to balance the interests of the applicant and the representations made by the Derbyshire Constabulary.

The amended guidance issued under section 182 of the Licensing Act 2003 allows for a police objection where in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective.

Having considered all of the evidence and considered the representations made to it, the Sub-Committee found that there were exceptional circumstances which justified the refusal of this application namely; the accepted and repeated criminality which had taken place at the premises and the view of the sub-committee that they had no confidence that the applicant would be able to promote the licensing objectives.

The sub-committee found that the refusal of the application was appropriate in order to promote the licensing objective of crime and disorder.

Minutes end