

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: LICENSING COMMITTEE

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APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR
&
APPLICATION TO TRANSFER A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 – EUROPA, 94 BARKERHOUSE ROAD, NELSON

PURPOSE OF REPORT

To consider applications for the variation of the designated premises supervisor (DPS) and transfer of a Premises Licence following receipt of representations from Lancashire Constabulary.

RECOMMENDATIONS

- (1) The application must be determined with a view to promoting the four licensing objectives, namely – prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.
- (2) The Committee must take into consideration the Police representation which considers the undermining of the crime prevention objective.
- (3) The Committee must have regard to the Guidance issued by the Government.
- (4) The Committee must have regard to its own Statement of Licensing Policy.

Having taken all of the above into consideration, the Committee must give reasons for its decision.

REASONS FOR RECOMMENDATIONS

The Licensing Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives –

- (a) grant the application(s) as asked;
- (b) reject the application(s).

ISSUE

A. The Applications

1. The applications (received 9th August 2016) are from Euro Foods (Nelson) Ltd. These are attached as Appendices 1A & 1B).
2. The application to specify an individual as designated premises supervisor (DPS) is made in the name of Mr. Arshad Javed.
3. The premises has held a licence (No.: PEN(A)0431) since August 2013. A copy is attached as Appendix 2.

B. Application Details

4. The application to transfer the premises licence and specify an individual as DPS is made by Euro Foods (Nelson) Ltd. of 94 Barkerhouse Road, Nelson. The company is registered (No.: 10259081) and lists Mr. Tariq Zaman (Date of birth: February 1980) as its sole director. The application was permitted without consent of the previous holder, as the applicant provided details of appropriate steps taken to contact them without success. The previous premises licence holder was Mr. Azhar Iqbal of 94 Barkerhouse Road, Nelson.
5. The application to specify an individual as DPS is made in the name of Mr. Arshad Javed of 115 Bankhouse Road, Nelson. There is no existing DPS, as the previous incumbent (Ms. Tasleem Balesaria of 43 Lammack Road, Blackburn) removed herself in July 2016.
 - a. Mr. Arshad Javed provided a written statement to the Licensing Enforcement Officer on 18th August 2016 (Appendix 3) that he did not consent to this application, and confirms that the signature on the form is not his own. Furthermore, Mr. Javed states he has no connections with the shop, and has never been in it.
 - b. Following this, the Licensing Enforcement Officer wrote to Mr. Zaman at Euro Foods (Nelson) Ltd., concerning the alleged fraud of the above-mentioned application, with instructions to contact the Licensing Office (Appendix 4). Following a discussion where Mr. Zaman was informed a police representation to the applications may be forthcoming, Mr. Zaman also stated he did not believe the application was fraudulently made and had evidence to the contrary. This has not yet been supplied.
 - c. Subsequently, a further application to specify an individual as DPS was made on 23rd August 2016 by Euro (Foods) Nelson Ltd. in the name of Mr. Waqas Mahmood of 312-314 Colne Road, Burnley. Following the police representation to the original application, this application has not been processed, but is attached for completeness as Appendix 5.
6. Representations to both application have been received (19th August 2016) from Lancashire Constabulary stating that they are satisfied that there are exceptional circumstances in this case and that the granting of these applications would seriously undermine the prevention of crime licensing objective. A copy of the representation is attached as Appendix 6.
7. Lancashire Constabulary also refer to the following information:
 - a. Recent police involvement with Europa – displayed as a timeline (Appendix 7).

- b. Details of counterfeit and non-compliant tobacco products at the premises (Appendix 8).
- c. Correspondence from a solicitor regarding Mr. Azhar Iqbal; Mr. Iqbal's police record of involvement with premises; and, copy of the letter regarding the application concerning Mr. Javed (Appendix 9).

C. Background Information

8. Under the Licensing Act 2003 a licensing authority must hold a hearing to consider an objection notice, unless the premises user, the chief officer of police who gave the objection notice and the authority agree the hearing is unnecessary (sections 39 (3) & 44 (5) Licensing Act 2003).
9. Under the Licensing Act 2003 in England and Wales the determination of an application for a premises licence where representations have been made can be made by a sub-committee as arranged by the licensing committee (sections 10 (4) (a) (iv) & (v) Licensing Act 2003).
10. A party who wishes to withdraw any representations they have made, may do so, by giving notice to the Authority no later than 24 hours before the day or the first day on which the hearing is to be held, or orally at the hearing (section 10 (a) and (b) Licensing Act 2003 (Hearings) Regulations 2005).
11. Time limits for hearings may be extended where it is in the public interest, and hearings can be adjourned where the Authority considers it necessary for further consideration of representations (sections 11 and 12 Licensing Act 2003 (Hearings) Regulations 2005).
12. Except where an Authority considers that the public interest in doing so outweighs the public interest in the hearing, the public shall not be excluded from a hearing (section 14 Licensing Act 2003 (Hearings) Regulations 2005).
13. At the beginning of the hearing, the Authority shall to explain to the parties the procedure it proposes to follow (section 22 Licensing Act 2003 (Hearings) Regulations 2005).

D. Considerations

14. The Licensing Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives –
 - (a) grant the application(s) as asked;
 - (b) reject the application(s).
15. All decisions of the Licensing Authority, and any conditions imposed, must be appropriate for the promotion of the licensing objectives.

IMPLICATIONS

Policy: There have been no changes to policy.

Financial: None arising directly from the report.

Legal: None arising directly from the report.

Risk Management: None arising directly from the report.

Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: None arising directly from the report.

Equality and Diversity: None arising directly from the report.

APPENDICES

1. Copy of applications:
 - a. Application to transfer.
 - b. Application to specify an individual as DPS.
2. Copy of existing Premises Licence (PEN(A)0431).
3. Statement from Arshad Javed.
4. Letter from Licensing Enforcement Officer.
5. Copy of application to specify an individual as DPS (Waqas Mahmood).
6. Representation from Lancashire Constabulary.
7. Recent police involvement (timeline).
8. Counterfeit and non-compliant tobacco products.
9. Information regarding Azhar Iqbal.

LIST OF BACKGROUND PAPERS

None