

MOGNIES RESTAURANT AND TAKEAWAY, 66 PENNY STREET, LANCASTER

APPLICATION TO TRANSFER PREMISES LICENCE

DECISION NOTICE OF LICENSING ACT SUB-COMMITTEE

WEDNESDAY, 15TH MARCH 2017

The Sub-Committee comprised of Councillor Terrie Metcalfe (Chairman), Councillor Mel Guilding and Councillor Sylvia Rogerson.

The Legal Adviser was Luke Gorst, Solicitor.

The Democratic Support Officer was Jane Glenton, Democratic Services.

An application had been made under Section 42 of the Licensing Act 2003 to transfer the premises licence for Mognies Restaurant and Takeaway, 66 Penny Street, Lancaster to Mrs. Savera Siraj Patel.

The Police had submitted an objection to the application by giving a Notice under Sections 42(6) and (7) of the Licensing Act 2003.

Mr. Richard Williams of Joelson Solicitors represented the Police, who had made the application on the grounds of the prevention of crime and disorder. PC Andy Taylor was also present and was accompanied by Sergeant Helen Parkinson.

The applicant was present and was represented by John Halewood-Dodd and David Collinson of LHD Solicitors.

The Chairman explained the procedure to those present, and stated that the hearing would be a discussion led by the licensing authority, and any questions would be put through the Chairman.

David Eglin, Licensing Officer, introduced the report, and stated that the application had been for the transfer to have immediate effect from the date of application, and therefore Mrs. Patel was currently the premises licence holder pending the outcome of the hearing.

Mr. Williams then presented the Police case and requested that the transfer of the premises licence to the applicant should be refused as it would undermine the crime prevention objective to allow the applicant to continue as the premises licence holder.

Mr. Halewood-Dodd then presented the applicant's case and Mrs. Patel helped answer questions.

After summing up, the Sub-Committee withdrew to make its decision, and sought advice from its legal adviser as to the appropriate phraseology of the decision.

DECISION

The Sub-Committee has noted that the application relates to the transfer of the premises

licence for Mognies Takeaway to Mrs. Savera Siraj Patel.

The Sub-Committee has to consider whether the exceptional circumstances surrounding the transfer are such that the transfer will lead to the undermining of the crime and disorder prevention objective.

Guidance issued under Section 182 of the Licensing Act 2003 states:

“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. Such objections are expected to be rare and arise because the Police may object to the transfer. Such objections are expected to be rare and arise because the Police have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved with crime (or disorder).”

The Sub-Committee has carefully considered all the written information before it and all the representations and views expressed at the hearing.

The Sub-Committee has heard evidence from the Police that they are objecting to this application because the applicant is the wife of the current premises licence holder. Mr. Patel is now serving a 4 year prison sentence following a conviction for grooming and sexual activity with a child. The offences took place in the delivery vehicle used for the premises.

The Police, in their initial objection, stated that they have fears that child sexual exploitation will continue at the premises, should the transfer take place, due to the same family ownership of the premises and same staff working there.

However, the Sub-Committee has seen no evidence that Mr. Patel's crimes were part of wider sexual grooming activity at the premises by Mr. Patel's family or by any of the staff employed there.

The Police also have concerns surrounding the employment of illegal immigrants found living at the premises in June 2016. The evidence before this Sub-Committee today is that Mrs. Patel was not involved in the management of the premises at this time.

There is currently a review of the premises licence due to take place soon and the Police say that this transfer is an attempt to defeat that review. The Police state that Mrs. Patel is still in contact with her husband and in effect nothing has changed at the premises. The Police submission is that they are “one and the same”.

The applicant submits that she only has limited contact with her husband and intends to run the premises with no input from him. Whilst the bank account is still in joint names, she has full control over the business and does not intend for him to have any future involvement.

This Sub-Committee has a decision to either allow the transfer to Mrs. Patel or not. The powers available to this Sub-Committee are different to those of a committee when considering a review of a premises licence and cannot impose conditions on the premises licence.

The Sub-Committee is of the view that transferring the licence from Mr. Patel, who is in

prison, to Mrs. Patel is appropriate, and the transfer is unlikely to undermine the crime and disorder prevention objective.

The Sub-Committee accepts the representations from the applicant that she has now taken over the business completely and that her husband will have no further involvement with it.

The transfer is therefore granted.

In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal against this decision within 21 days. This decision will not have effect until the day following the end of the period given for appealing this decision, or if the decision is appealed against, the day after the appeal is disposed of.

**Any queries regarding these Minutes, please contact
Jane Glenton, Democratic Services - telephone: (01524) 582068 or email
jglenton@lancaster.gov.uk**