

MINUTES

LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

19 SEPTEMBER 2017

Present:

Councillors: Conway
P Hearn
Taylor

Officers: Christopher Gaunt Legal Governance Team Leader
Ross Hill Licensing Team Leader
Katie Mogan Member Support Officer
Usman Mohammed Pupil, Legal Governance

Also in Attendance:

Mr Miah – Owner (Item 4)

The meeting began at 2.30 pm.

9 MINUTES

The minutes of the meeting held on 29 March 2017 were confirmed by the members present and then signed by the Chairman.

10 APOLOGIES FOR ABSENCE

There were no apologies for absence.

11 DECLARATIONS OF INTEREST

There were no declarations of interests.

12 PREMISES LICENCE APPLICATION UNDER THE LICENSING ACT 2003

The Sub-Committee were required to consider an application for grant of a premises licence for the following premises:

Olive Indian Restaurant
16-18 Lawn Lane
Hemel Hempstead
Hertfordshire
HP3 9HL

The Chairman introduced herself, the members on the Sub-Committee and the officers present.

The Chairman asked the members of the Sub-Committee to confirm that they had read the agenda and advise if they were aware of the premises. Councillors Conway and Taylor confirmed they had read the documents at hand and were aware of the premises.

The Chairman asked R Hill if the legal requirements had been complied with and R Hill confirmed they had.

R Hill explained that the sub-committee had before them an application for the grant of a new premises licence, for premises at 16-18 Lawn Lane in Hemel Hempstead, trading as the Olive Indian Restaurant. The premises previously traded as the Paprika Spice Lounge, on a bring-your-own-alcohol basis, which would not have required a licence. Nine representations were received from local residents in respect of the original application, citing concerns in respect of noise nuisance, parking issues and the supply of alcohol without food.

After seeing the representations, the applicant volunteered an amendment to remove all music entertainment from the application. The application now seeks permission for the supply of alcohol only – all entertainment has been removed from the application. The proposed hours are noon to 11pm Sunday to Thursday, and noon to 11.30pm Friday/Saturday, with additional 'drinking-up' time until midnight.

The options available to the Committee were set out on page 8 of the report, at paragraph 4.1.

The Chairman invited the sub-committee to ask any questions they may have.

The Chairman asked the Applicant to confirm he had agreed to remove the entertainment from his application. Mr Miah confirmed he had due to the public concerns. He advised that the entertainment was intended for themed nights such as Elvis Presley, Michael Jackson, etc. but he said they wouldn't have had really loud music as it was such a small venue. He said they compromised on the entertainment after speaking to the Licensing officers about the issues raised from local residents as the licence being granted was much more important to them.

The Chairman noted that the local residents were concerned about the parking. Mr Miah advised that it was a busy parade and parking was an everyday issue. He said people would always find somewhere to park.

Councillor Taylor said he understood the issues of parking but felt that on the map footprint of 16-18 it looked quite large. He queried if there was parking marked on the map. Mr Miah advised 16-18 was previously two small buildings, and there was a car park at the rear of the building for approximately 20 cars. He explained this was a slight issue as the previous owners couldn't afford to rent the car park so the landlord had separated the car park from the building.

Councillor Taylor drew attention to the plan on page 34. He said the area looked like it could accommodate four cars and he asked if this area was rented out to someone else. Mr Miah said he had spoken to the Landlord about parking and was advised

that the rent agreement was done on an annual basis so from next August the carpark might be available for them to rent.

Councillor Taylor asked the Applicant if he knew details of the rental agreement. Mr Miah said he didn't.

The Chairman queried if the supply of alcohol was for both on and off of the premises. Mr Miah advised that they wouldn't supply alcohol without the purchase of food, including takeaways.

Councillor Taylor referred to the on/off licence sales and asked R Hill if he was happy for alcohol to only be allowed with food bought on site. R Hill advised they would need an additional condition added to the licence. He asked the Applicant if he was happy for the sub-committee to add a condition about only serving off licence alcohol with food. Mr Miah confirmed he was happy with this. He said he previously owned an off licence and wasn't interested in this; he wanted to focus on the restaurant.

Councillor Taylor asked R Hill if there was any evidence of issues from the previous owners, and highlighted that there had been no objections from the Police. R Hill said he wasn't aware of any complaints of nuisance. R Hill asked the Applicant when he began trading without alcohol. Mr Miah advised it was 21st August and said they currently had no alcohol on the premises. He added the beer they served was alcohol-free.

Councillor Taylor said the letters they had received suggested there could be some problems but they couldn't take in to account previous issues and owners. He asked the Applicant to confirm how he intended to manage the building. Mr Miah said restaurants rarely sell drink to people up until the licence allowed them to. He advised restaurants are normally empty by 9.30 pm in his experience and he didn't intend to serve the pub trade. He said it was an early business and then he wanted to go home to his family.

Councillor Taylor said the assurance from the Applicant was enough and if any of the conditions were broken, Mr Miah would find himself before the sub-committee.

The meeting was adjourned at 2.50 pm.

The meeting reconvened at 2.55 pm.

Resolved:

The Sub-Committee agreed to grant the licence subject to a mandatory condition that alcohol may only be sold to persons purchasing food from the premises.

The authority considers this condition is appropriate for the promotion of the licensing objectives.

13 **SMALL SOCIETY LOTTERY REGISTRATION APPLICATION UNDER THE GAMBLING ACT 2005**

The Chairman asked R Hill to introduce the report.

R Hill advised that the application before them was for a small society lottery registration, from ProFormance Global. These registrations are typically used by local charities, school PTAs and similar organisations for permission to promote fundraising raffles and lottery competitions. The law gives local authorities the power to register non-commercial societies such as these to promote small society lotteries.

In the current case, the applicant is a commercial company, engaging in sports training. Although the work undertaken by the company is no doubt laudable, the fact that the directors of the company may receive a personal dividend from any profits made from the company mean that its status is incompatible with the non-commercial requirement in lottery law. UK law prohibits the promotion of lotteries for commercial purposes or benefit, with the exception of the National Lottery and External Lottery Managers, who must be licensed by the Gambling Commission.

Officers are therefore recommending that the current application be refused, on the grounds that the applicant cannot be considered to be a non-commercial society, and thus is not eligible for registration.

There were no questions on the matter.

Resolved:

The Sub-Committee carefully considered the application and subsequent correspondence between the applicant and officers.

The Sub-Committee agreed that the applicant, as a commercial limited company with private shareholders entitled to dividends from any profits made by the company, could not be considered to be a non-commercial society, and thus was not eligible to be registered to promote small society lotteries to benefit a non-commercial society.

The application was therefore **refused**, under paragraph 48(1) of schedule 11 to the Gambling Act 2005.

The Sub-Committee highlighted the suggestion in the letter sent by officers dated 9 June 2017, that an acceptable route forwards may be to establish a separate non-commercial society, operating entirely outwith the company, which may engage in various fundraising activities to generate funds for the sporting activities. However, any such society would need to be constituted and operated entirely separately from the company, with a specific constitution and other governance provisions.

The Meeting ended at 3.00 pm