

Licensing Panel

Licensing Act 2003

Applications for Transfer of a Premises Licence & Change of Designated Premises Supervisor

Eagle Off Licence, 194 Ashton Road, Oldham, OL8 1QT

Report of Executive Member for: Neighbourhoods

Officer contact: Nicola Lord
Ext. 3472

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Reason for Decision

The purpose of this report is to inform Members of an application to transfer a premises licence, and change the Designated Premises Supervisor (DPS) in respect of Eagle Off Licence, 194 Ashton Road, Oldham, OL8 1QT which, due to representation being received, has been referred to this Panel for determination.

Recommendations

Members are recommended to consider the application, taking into account the representation received.

Licensing Act 2003 – Application for Transfer of a Premises Licence & Change of DPS – Eagle Off Licence, 194 Ashton Road, Oldham, OL8 1QT

1 Background

- 1.1 The purpose of this report is to inform Members of an application to transfer a premises licence, and change the Designated Premises Supervisor (DPS) in respect of Eagle Off Licence, 194 Ashton Road, Oldham, OL8 1QT which, due to representation being received, has been referred to this Panel for determination.

2 Recommendations

- 2.1 Members are recommended to consider the application, taking into account the representation received.

3 The Application

- 3.1 On the 22nd June 2021 Mr Satar Rasul Farag applied to transfer the premises licence and change the specified DPS in respect of the premises named above. The last day for representations in respect of the application was the 6th July 2021.
- 3.2 Details of the transfer & change of supervisor are as follows:-
- Current Premises Licence Holder – New Euro Market Ltd (Director is Hawta Talib Anwar)
- Proposed Premises Licence Holder – Satar Rasul Farag
- Current Designated Premises Supervisor – Hawta Talib Anwar
- Proposed Designated Premises Supervisor – Satar Rasul Farag
- 3.3 A copy of the applications are attached at **Appendix 1**.
- 3.4 A location map is attached at **Appendix 2**.

4 Representations

- 4.1 Following submission of the application, a representation has been received from Greater Manchester Police. This can be found at **Appendix 3** to this report.

5 Licensing Policy

5.1 Members considering the application should take note of the Authority's Licensing Policy Statement when determining an application. Attention should be drawn to Section 8 of the Council's Statement of Licensing Policy relating to Public Nuisance.

5.2 In relation to the Licensing Objectives, section 4 provides:-

4.1 In exercising its functions under the Licensing Act 2003, the Authority will have regard to the Licensing Objectives as set out in Section 4 of the Act.

4.2 The Licensing Objectives are:

- a) The prevention of crime and disorder;
- b) Public safety
- c) The prevention of public nuisance; and
- d) The protection of children from harm

4.3 The Act place a duty on the Licensing Authority to carry out its functions under the Act with a view to promoting these objectives.

4.4 Each of these objectives is considered to be of equal importance for the purposes of this policy.

5.3 A full copy of the Councils Licensing Policy statement will be available at the hearing.

6 Secretary of State Guidance

6.1 Members also need to consider statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 (April 2018).

6.2 In relation to 'Police objections to new designated premises supervisors', the following paragraphs provide:-

4.39 – The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective...

4.40 – Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision.

6.3 In relation to 'Transfers of premises licences', the following paragraphs provide:-

8.101 – 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 have

evidence that the business of individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder).

6.4 A full copy of the guidance will be available at the hearing.

7 Options/Alternatives

7.1 When determining the application Members, having had regard to the representation, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps are -

- a) Grant the application;
- b) To reject the application;

7.2 Findings on any issues of fact should be on the balance of probability.

7.3 In arriving at a decision Members must have regard to the relevant provisions of national guidance and the licensing policy statement and reasons must be given for any departure.

7.4 The decision should be based on the individual merits of the application.

8 Consultation

8.1 Consultation in accordance with the Act has taken place with the relevant Responsible Bodies.

9 Legal Services Comments

9.1 In relation to the application to transfer the premises licence, under section 42 of the Licensing Act 2003, where the chief officer of police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the Council a notice stating the reasons why he is so satisfied. Under section 44 of the Act, having regard to the notice the Council must reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

9.2 In relation to the application to vary the premises licence to change the designated premises supervisor, under section 37 of the Act, where the chief officer of police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the Council a notice stating the reasons why he is so satisfied. Under section 39 of the Act, having regard to the notice the Council must reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

9.3 Both the applicant and the police have a right of appeal to the magistrates' court in respect of the Council's decision on the applications. (A Evans)

10 Environmental and Health & Safety Implications

10.1 None.

11 Equality, community cohesion and crime implications

11.1 The Council's 'Statement of Licensing Policy' takes into account these matters. All decision made by the Licensing Panel, must have regard to this policy and National Guidance.

12 Equality Impact Assessment Completed?

12.1 No

13 Background Papers

13.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

File Ref: Records held in Directorate
Officer Name: Nicola Lord
Contact No: 0161 770 3472

14 Appendices

Appendix 1 – Applications (Transfer & Change of Supervisor)

Appendix 2 – Location Map

Appendix 3 – Representation received from GMP