

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Shared Public Protection Manager

To: Panel of the Committee of the Licensing Authority -Thursday, 9 January 2020

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Subject Licensing Act 2003

Purpose: To consider an application to Transfer a Premises Licence and an application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor under the Licensing Act 2003 at Delicja, Unit 2, 20 Westlode Street, Spalding, Lincs, PE11 2AF

Recommendation(s):

- 1) That the Panel of the Committee of the Licensing Authority determine the applications for the Transfer of a Premises Licence and to Vary the Designated Premises Supervisor at Delicja, Unit 2, 20 Westlode Street, Spalding, Lincs, PE11 2AF in accordance with the options available under Section 2.0 of the report.

1.0 BACKGROUND

- 1.1 The Licensing Authority received an application to transfer a premises licence under Section 42 and an application to vary the designated premises supervisor under Section 37 of the Licensing Act 2003 on the 27th November 2019 by Mr Aram Salar. Mr Salar holds a Personal Licence with Leicester City Council which was granted on 14th September 2011. The applications are attached at **Appendix 1**. Copies of the applications as required under the Licensing Act 2003 were served on Lincolnshire Police by the applicant.
- 1.2 Section 43 and Section 38 of the Act provides a mechanism which allows the transfer and variation to come into immediate effect as soon as the Licensing Authority receives it, until it is formally determined or withdrawn.
- 1.3 Under Section 42(7) and 37(6) of the Act, the Chief Officer of Police has 14 days following receipt of the applications to submit an objection. An Objection Notice for each application was served on the Licensing Authority on 2nd December 2019. The Notices are attached at **Appendix 2**.
- 1.4 Section 182 Guidance issued by the Home Office relating to transfer of premises licence states:

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 (or the Home Office Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons are involved in crime (or disorder) or employing illegal workers".

1.5 Section 182 Guidance also states:

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”.

1.6 The Premises Licence including the plan for Delicja, premises licence number PL0337 is attached at **Appendix 3**.

2.0 **OPTIONS**

2.1 The Members of the Panel of the Committee of the Licensing Authority must consider the Objection Notices received with a view to promoting the licensing objective in respect of the Prevention of Crime and Disorder.

2.2 In making its decision, Members of the Panel are asked to consider the application in line with the following:

- The Licensing Act 2003 and Regulation made under it;
- Guidance issued under Section 182 of the Licensing Act 2003;
- The Licensing Authority’s Statement of Licensing Policy.

2.3 The Panel may make the following determination

- a) To grant the applications;
- b) To reject the applications if it considers it necessary for the promotion of the crime prevention objective to do so, having regard to the notice from the Chief Officer of Police.

2.4 Members are asked to determine the applications having regard to the above matters and any others it considers material. Full reasons for the decision must be given.

3.0 **IMPLICATIONS**

3.1 **Constitutional & Legal**

3.1.1 The decision of the Panel of the Committee of the Licensing Authority is subject to appeal to the Magistrates Court.

3.2 **Crime and Disorder**

3.2.1 The representation from Lincolnshire Police highlights concerns in relation to the Licensing Objective of the Prevention of Crime and Disorder.

3.3 **Equality and Diversity/ Human Rights**

3.3.1 Article 1: Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law and by the general principles of international law.

3.3.2 Article 6: The Sub-Committee must ensure a fair hearing (The applicant has been invited to attend the meeting, has been sent a copy of this report and informed of his/her rights to be represented at the meeting).

3.3.3 Article 8: Everyone has the right to his/her private life and family home.

3.4 **Safeguarding**

3.4.1 Representations from Lincolnshire Police highlight concerns in relation to the licensing objectives, which could encompass safeguarding.

4.0 **WARDS/COMMUNITIES AFFECTED**

4.1 All

Background papers:-

Licensing Act 2003

<https://www.legislation.gov.uk/ukpga/2003/17/contents>

Guidance issued under Section 182 of The Licensing Act 2003

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018.pdf

South Holland District Council Statement of Licensing Policy

https://www.sholland.gov.uk/media/5192/Licensing-Policy-Statement/pdf/Licensing_Policy_Statement_2015.pdf

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Key Decision: N

Exempt Decision: N

Appendices attached to this report:

Appendix 1	Applications to transfer and to vary the designated premises supervisor of a premises licence to be granted under the Licensing Act 2003
Appendix 2	Objection Notices from Lincolnshire Police
Appendix 3	Premises Licence PL0337