

Committee: Licensing and Environmental Health

Date:

Title: **APPLICATION FOR THE TRANSFER OF A PREMISES LICENCE – QUEEN VICTORIA, 79 STORTFORD ROAD, GREAT DUNMOW, ESSEX CM6 1DL**

21 August 2018

Report Author: Amanda Turner, Licensing Team Leader

Item for decision: Yes

Summary

1. To inform members of an application for the transfer of the premises licence for Queen Victoria, 79 Stortford Road, Great Dunmow which has attracted an objection from Essex Police, who object to the transfer of the premises licence, in order that the members can determine the application made under Section 42 of the Licensing Act 2003.

Recommendations

2. Members consider the police objection to the application for the transfer of the premises licence, and decide whether to: (a) Grant the application for the transfer of the premises licence to Mr Hadayouth Choudhury and Mr MD Anayet Chowdhury or (b) Reject the application for the transfer of the premises licence to Mr Hadayouth Choudhury and Mr MD Anayet Chowdhury if it considers it appropriate to do so for the promotion of the crime prevention objective.

Financial Implications

3. None

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Licensing Act 2003

Council's Statement of Licensing Policy

National guidance issued under Section 82 of Licensing Act 2003.

Impact

- 5.

Communication/Consultation	None. Application must be heard at Committee within 20 working days after the 14 day consultation has ended.
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Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	<p>Under Article 1 First Protocol to the European peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context.</p> <p>In the event that an applicant, responsible authority or interested party is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court.</p>
Sustainability	None
Ward-specific impacts	Dunmow being the ward which premises are situated.
Workforce/Workplace	None

Situation

6. The applicant, the police and the previous licence holder have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 and Licensing Act 2003 (Hearings) (Amendment) Regulations 2005 “the Regulations”. Information to accompany the notice of hearing was provided to the applicant, the police and the previous licence holder in accordance with “the Regulations”.
7. Any assessment of licensable activities under the Act must consider and promote the four licensing objectives:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance and
 - The prevention of children from harm
8. An application for the transfer of an existing premises licence under Section 42 of the Act is normally a straightforward licensing procedure and is dealt with as an administrative matter. As part of the application process, notice of the

application needs to be served on to the Police and also the Home Office if alcohol and or late-night refreshment is involved.

9. Under Section 42 (6) of the Act where a 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 serve notice to the Licensing Authority within fourteen days of receiving the application.
10. When a valid objection under Section 42 (6) is received from the police and the objection has not been withdrawn, the matter must be referred to the Licensing and Environmental Health Committee for a hearing to determine the application.
11. An application to transfer a premises licence under the Licensing Act 2003 was received by Uttlesford District Council ("the Licensing Authority") from to Mr Hadayouth Choudhury and Mr MD Anayet Chowdhury on 9 July 2018 although due to errors needing to be corrected on the form it was not officially valid until 12 July 2018 (Appendix 1).
12. Mr Hadayouth Choudhury and Mr MD Anayet Chowdhury have applied to transfer premises licence Queen Victoria, 79 Stortford Road, Great Dunmow into their names from the current licence holders Mr Ziaul Chowdhury and Mr Omar Shorif. Records show Premises Licence PLO113 was granted to Mr Ziaul Chowdhury and Mr Omar Shorif on 9 November 2005.
13. In this case the request to transfer was to have immediate effect and was administered by the Licensing Authority accordingly. By virtue of Section 43 of the Act the premises licence has effect during the "application period" as if the applicant were the holder of the licence. The application period began when the application was received by the Licensing Authority and ends when the application is granted, or if it is rejected, at the time the rejection is notified to the applicant. Therefore, if a decision is made to appeal the Panel's decision at the Magistrates Court the "application period" will continue until the determination by that court.
14. On 24 July 2018 the Licensing Authority received a notice under Section 42 (6) of the Act from in objection to this application, including a detailed account of their reasons (Appendix 2). These reasons are considered by the licensing team leader to be a valid objection under the Act.
15. In such cases, if a subsequent objection against the transfer is received from the police within the legal timeframe (14 days), the matter must be placed before the Committee to determine the application under Section 44 (5) of the Act.
16. The decision that the committee can make for this application is to
 - (a) grant the transfer of this premises licence to Mr Hadayouth Choudhury and Mr MD Anayet Chowdhury or

- (b) To reject the application for the transfer of the premises licence to Mr Hadayouth Choudhury and Mr MD Anayet Chowdhury if it considers it appropriate to do so for the promotion of the crime prevention objective.

Whatever option is decided upon, clear reasons should be given for the decision.

17. The premises are already the subject of a review application, which is currently being consulted upon. The review application was made by the police on the grounds of crime and disorder relating to immigration offences.
18. Paragraph 8.101 of the Secretary of State's Guidance states that objections to transfers are expected to be rare and arise because the police or the Home Office have evidence that the business or individuals are involved in crime or employing illegal workers.
19. Under Schedule 5 part 1 of the Licensing Act 2003 any person aggrieved by the decision in respect of the review application may appeal to a Magistrates' Court within 21 days of the date of the decision
20. Both the applicant and the police have the right to appeal any decision of the Licensing Committee to the Magistrates Court with respect to this application for transfer of the licence

19 Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An appeal against a decision of the committee or a judicial review of the application process may present financial risks to the council with regard to any award of costs against it.	N/A	N/A	N/A

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.