

Report for: Licensing Sub Committee – 12th June 2023

Title: Application for a Transfer & Variation of Designated Premises Supervisor for Premises Licence at –Maxxi Food & Wine 42 Topsfield Parade. London N8

Report authorised by: Daliah Barrett, Licensing Team Leader, Regulatory Services

Ward(s) affected: Crouch End

Report for Key/ Non Key Decision: Not applicable

1. Describe the issue under consideration.

- 1.1 On 26th April 2023, a transfer application was submitted by Atlas Licensing on behalf of Mr Ahmet Karagoz. The transfer application has immediate effect.
- 1.2 The Police were consulted in respect of the application. A copy of the transfer application is attached as Appendix 1.
- 1.3 On 27th April 2023, a Vary DPS application was submitted by Atlas Licensing on behalf of Mr Ahmet Karagoz to be named as the DPS.
- 1.4 The Police were consulted in respect of the application. A copy of the Vary DPS application is attached as Appendix 2

2. History

- 2.1 On March 2023 an application to review the licence was submitted by Trading Standards. In this regard the premises was found to be stocking for sale-controlled medication and non-compliant E cigarettes. Also, NOS gas being sold to customers who then consumed the substance outside the premises which then led to nuisance and anti-social behaviour. and the objective of the prevent crime and disorder being impacted. Failure to promote the 'Prevention of Public nuisance' was also added to the review due to the anti-social behaviour that resulted from the operation of the premises. As is the 'Public Safety' objective due to the illicit goods being harmful to health. A copy of the current licence is attached at Appendix 4. The people associated in the business have a history of selling illicit goods at their various retail outlets in Enfield also.
- 2.2 The review hearing took place on 30th May 2023. At the time of preparing this report the LSC decision was not known.
- 2.3 The applicant Mr Karagoz is affiliated with the operation of Maxxi Food & Wine in particular for the branch at 38 Chase Side Enfield.

3 Relevant representation

- 3.1 **Metropolitan Police:** Notice was given (under S.42(6)) that grant of the transfer application Would undermine the crime prevention objective. The Police states that it is appropriate, for the promotion of the licensing objectives, to object to the transfer of Premises Licence and the Variation of the DPS.

3.2 A copy of the representation and Additional Information is attached as Appendix 3. Mr Karagoz has not responded to the objection. The Police sought clarification from Mr Karagoz to show that he had indeed fully taken over the premises in his own right and therefore separate to Mr Altun and Ms Yengin, but have been unable to establish any proof of this.

4 Transfers of premises licences – General

4.1 Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

4.2 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. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking. (4.39)

4.3 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. Either party would be entitled to appeal if their argument is rejected. (4.40)

4.4 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency. (4.40)

4.5 In its consideration of applications for transfer of a premises licence following application for a review, this Authority is concerned over the frequently observed practice of an application for a transfer of a premises licence being made following an application for a review of that same licence being lodged:

“16.7 Where, such applications are made, this Authority will require documented proof of transfer of the business / lawful occupancy of the premises (such as a lease), to the new proposed licence holder to support the contention that the business is now under new management control”

4.6 Police objections to new designated premises supervisors

4.7 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. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns.

5 RELEVANT LAW, GUIDANCE & POLICIES:

5.1 The paragraphs below are extracted from either the Licensing Act 2003 ('Act'); or the Guidance issued by the Secretary of State to the Home Office of April 2018 ('Guid'); or the London Borough of Enfield's Licensing Policy Statement of January 2016 ('Pol').

5.2 General Principles:

5.3 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4(1)].

5.4 The licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; &
- the protection of children from harm [Act s.4(2)].

5.5 In carrying out its functions, the Sub-Committee must also have regard to the Council's licensing policy statement; & guidance issued by the Secretary of State [Act s.4(3)].

6. Decision:

6.1 Having heard all the representations (from both parties) the Licensing Sub-Committee must decide whether to:

- Grant the applications; or
- Reject the applications if it is considered necessary for the promotion of the crime and disorder objective.

6.2 The remaining three objectives, namely public safety, prevention of public nuisance and protection of children from harm, are not considerations that may be taken into account in relation to determination of the variation of a designated premises supervisor (DPS).

7 Legal considerations

7.1 There is no scope for the addition of conditions in this instance. The only options available in respect of this application are as highlighted in paragraph 6.1-6.2 above..

7.2 There is a right of appeal to the Magistrates Court by any party aggrieved by any decision of the Panel.

8. Use of Appendices

- Appendix 1 –Copy of Transfer application
- Appendix 2- Copy of Variation of Designated Premises Supervisor
- Appendix 3- Copy of Police objection
- Appendix 4- Copy of current Premises Licence.

Background papers

- Section 82 Guidance
- Haringey Statement of Licensing Policy

Background Papers :

None other than any identified within the report.

