

LICENSING SUB-COMMITTEE

DATE	19 January 2021
REPORT OF	Sharon Wroot - Executive Director for Environment, Economy and Resources
SUBJECT	Receipt of Police Objections regarding the Transfer of a Premises Licence at Spice of Life, 8 – 12 Wellowgate, Grimsby, DN32 0RA
STATUS	Open

CONTRIBUTION TO OUR AIMS

Stronger Economy:

Support for premises that promote the licensing objectives through appropriate action against those that do not.

Stronger Community:

Reduce incidence of crime, anti-social behaviour associated with licensed premises

EXECUTIVE SUMMARY

The Licensing Authority under the Licensing Act 2003 (“the Act”) has a duty to determine applications for any Licence under the Act where relevant objections have been made. This duty has been delegated to the Licensing Sub-Committee.

Section 42(6) of the Act states that where the Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting an application to transfer a premises licence would undermine the crime prevention objective, he must then give the licensing authority a notice stating the reasons for this.

RECOMMENDATIONS

To determine the application for the Transfer of the Premises Licence and consider the objections under s44 of the Act. To take such steps as considered **appropriate** for the promotion of the Crime Prevention Objective.

REASONS FOR DECISION

Must have regard to:-

- North East Lincolnshire Council’s Statement of Licensing Policy.
- Guidance issued by the Secretary of State under s.182 of the Act.

Steps taken must be **appropriate** for the promotion of the Crime Prevention Objective.

1. BACKGROUND AND ISSUES

These are fully contained in the report of Jo Bennett

2. RISKS AND OPPORTUNITIES

Crime and Disorder – If the Sub-Committee finds that the grant of this application would undermine the crime prevention objective, it must consider whether rejection is appropriate to prevent this. If appropriate steps are not taken there is a risk that the licensing objectives will not be promoted.

Human Rights – The applicant is entitled to a fair hearing; article 6 of the European Convention on Human Rights applies. Article 8, the right to respect for private and family life, also applies as the “licence” is crucial to the livelihood of the premises licence holder. The Human Rights of the wider community are also engaged.

Equality and Diversity – No direct effects

Value for Money –The aim must be to take action that prevents problems persisting and using further licensing resources.

The Impact on the Social, Economic and Environmental well-being of the Borough – Action taken to ensure that licensed premises promote the licensing objectives will have a positive impact in these respects.

Environmental Sustainability Implications – None

3. OTHER OPTIONS CONSIDERED

The steps which may be taken are:

- Grant the application
- Reject the application

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

There are potential positive reputational implications for the Council resulting from the decision where appropriate action has seen to have been taken. An action plan has been agreed with the Council's communications service covering information requirements and communication channels to be utilised.

5. FINANCIAL CONSIDERATIONS

This report relates to a determination required in response to a an application made under the Licensing Act 2003. The process is governed by statutory regulations and the fees involved are statutory. There are no direct resource or funding implications in the first instance but there may be on appeal (see Section 5).

6. FINANCIAL IMPLICATIONS

The premises licence holder, the responsible authorities and any relevant person have a right of appeal against the decision made to the

Magistrates and/or High Court. If the Licensing sub-committee takes a step which is considered to be unnecessary or unlawful by a higher court there is a risk that an award of costs may be ordered against the Council in favour of the successful appellant. Such costs are difficult to quantify or estimate.

7. LEGAL IMPLICATIONS

These are covered in the body of the report of the Licensing Officer.

8. HUMAN RESOURCES IMPLICATIONS

There are no Human Resource Implications.

9. WARD IMPLICATIONS

Park Ward

10. BACKGROUND PAPERS

Please refer to the Index of Members Papers

11. CONTACT OFFICER

Jo Bennett, Licensing Enforcement Officer, Tel: 01472 326299

Sharon Wroot

Executive Director for Environment, Economy and Resources

LICENSING ACT 2003

Report to Licensing Sub-Committee Following Receipt of Police Objections to Transfer Application

Spice of Life
8-12 Wellowgate
Grimsby
DN32 0RA

NORTH EAST LINCOLNSHIRE COUNCIL
LICENSING AUTHORITY

LICENSING ACT 2003

Report to Licensing Sub-Committee
following receipt of Relevant Representations

1. Summary Of Application - (Full details in Application Form)

1.1 Premises: Spice of Life, 8 – 12 Wellowgate, Grimsby, DN32 0RA

1.2 Applicant: Tale & Spirit Group Ltd

1.3 Date Application Received: 16 December 2020

1.4 Summary of Application:

Transfer of Premises Licence for the Premises cited in 1.1 above from Mr Mohammed Abdul Salique and Mr Abdul Somir to Tale & Spirit Group Ltd.

2. Police Objection – (Full details attached to report)

2.1 Date received: 30 December 2020

2.2 Summary:

Humberside Police believe this application has been made to circumvent a Review Application of the current Premises Licence and that it will not promote the Prevention of Crime and Disorder Objective of the Licensing Act 2003 as Tale & Spirit Group Ltd will not be independent of the previous owners Mr Salique or Mr Samir and their previous illegal activity.

3. Statement of Licensing Policy

The following sections of North East Lincolnshire Council's Statement of Licensing Policy 2015 – 2020 are considered relevant to this case:

8.2.1	Premises Licences
8.7.1	Representations
8.8.5 - 8.8.6	Reviews
9.2.1 – 9.2.3	Crime Prevention

4.Guidance issued under Section 182 of the Licensing Act 2003

This guidance is provided for Licensing Authorities carrying out their functions. It is regarded by the Government as a key mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality. It does not however replace any statutory provisions of the 2003 Act and it is for the Licensing Authority to take their own professional and legal advice about its implementation.

The following sections of the Guidance are considered relevant to this case:

2.1 & 2.6	Crime and Disorder
8.99 – 8.102	Transfers of premises licence
11.24 - 11.28	Reviews arising in connection with a crime

5. General Advice on Determination of the Application –

- 5.1** The sub-committee are advised that findings on any issues of fact should be on the balance of probability.
- 5.2** The sub-committee are advised that in arriving at any decision, it must have regard to relevant provisions of national guidance and North East Lincolnshire Council's Statement of Licensing Policy. Reasons must be given for any departure.
- 5.3** The sub-committee are advised that the final decision should be based on the individual merits of the application and the factual findings made at the hearing.
- 5.4** Section 44 of the Licensing Act 2003 states that where relevant objections have been made and a hearing is held to consider them, the sub-committee can take such of the steps set out below as it considers **appropriate** for the promotion of the crime prevention objective
- Grant the application
 - Reject the application
- 5.5** The sub-committee are advised that they must take into account the following Human Rights provisions:
- Everyone affected by a decision has a right to a fair hearing.
 - Everyone has the right to his private and family life, his home and his correspondence.
- 5.6** The sub-committee, in its decision making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010

6. Observations

- 6.1** Humberside Police consider there is insufficient evidence provided by the applicant to prove that the new premises licence holders will be independent of the previous owners. Whilst proof of the lease of the Spice of Life business to Tale & Spirit Group has been requested by Humberside Police, along with further evidence of the Transfer. As of 6 January 2021, none has been submitted by their legal representative Mr Kheng.
- 6.2** Humberside Police request that the Licensing Committee consider the points raised in this objection and refuse the transfer application.

Report prepared by – Jo Bennett

8 January 2021