

## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Licensing Sub-Committee                      **Date:** 7 July 2020

**Place:** Council Chamber, Civic Offices,                      **Time:** 2.15 - 3.42 pm  
High Street, Epping

**Members Present:** R Morgan (Chairman), P Keska and M Sartin

**Other Councillors:**

**Apologies:**

**Officers Present:** D Houghton (Licensing Compliance Officer), K Tuckey (Licensing Team Manager), R Ferriera (Assistant Solicitor), A Hendry (Democratic Services Officer) and V Messenger (Democratic Services Officer)

### 5. WEBCASTING INTRODUCTION

The Chairman made a short address to remind everyone present that the meeting would be broadcast live to the internet, and would be capable of repeated viewing, which could infringe their human and data protection rights.

### 6. DECLARATIONS OF INTEREST

There were no declarations of interest made pursuant to the Members Code of Conduct.

### 7. PROCEDURES FOR THE CONDUCT OF A VIRTUAL MEETING

The Sub-Committee noted the agreed procedure for the conduct of business and the terms of reference.

### 8. EXCLUSION OF PUBLIC AND PRESS

#### RESOLVED:

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that it would involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
7	Full Summary Review of Premises Licence – Abbey Grill, 18 Sun Street, Waltham Abbey	7

**9. FULL SUMMARY REVIEW OF PREMISES LICENCE - ABBEY GRILL, 18 SUN STREET, WALTHAM ABBEY, EN9 1EE**

The three Councillors that presided over this item were Councillors R Morgan, P Keska and M Sartin.

The Chairman introduced the Members and Officers present and outlined the procedure that would be followed for the determination of the summary review. The Chairman welcomed the participants and requested that they introduce themselves to the Sub-Committee. In attendance on behalf of the applicant was Peter Jones, Essex Police Licensing Officer. For the premises licence holder were Mr Robert Southerland (Barrister) for Mr Mustafa Kalayci, the licence holder, and Hasim Demir.

**(a) Application before the Sub-Committee**

The Licensing officer, D Houghton, introduced the application for an Expedited Summary Review of a Premises Licence under Section 53A of the Licensing Act 2003 and where a Certificate under Section 53A(1)(b) of the Licensing Act 2003 was received from Essex Police in respect of a Premises Licence issued to Abbey Grill, 18 Sun Street, Waltham Abbey, EN9 1EE.

On 15<sup>th</sup> June 2020 in accordance with Section 53B of the Licensing Act 2003, the Licensing Authority after reading Essex Police's review application and the Certificate made the decision to implement the following interim steps to take effect immediately:

- (a) The exclusion of the Sale of Alcohol by retail from the scope of the licence.
- (b) The removal of the Designated Premises Supervisor (DPS) from the licence
- (c) To suspend the Premises Licence until a full Review hearing, (28 days can take place.

A copy of the application for a summary review was served on the holder of the Premises Licence and all responsible authorities. The certificate served on the holder of the premises licence, stated that in the opinion of Superintendent C Saunders the Premises were associated with serious crime.

In support of the application Essex Police had supplied a supplementary documented account of the incidents.

The Licensing Authority had received a representation from Waltham Abbey Town Council relating to the licensing objective of The Prevention of Crime and Disorder.

Members were asked to make their decision based on consideration of any representations received with a view to promoting the four licensing objectives which were:

- Prevention of crime and disorder.
- Public safety.
- Prevention of public nuisance.
- Protection of children from harm

And that in the case of a review of a Premises Licence the Licensing Sub-Committee had the following options:

- (a) To modify the Conditions of the Premises Licence and/or attach new conditions;
- (b) To exclude from the Licence a licensable activity;
- (c) To remove the Designated Premises Supervisor;
- (d) To suspend the Licence for a period not exceeding 3 months;
- (e) To revoke the Licence;
- (f) To leave the Licence in its existing state.

**(b) Presentation of the Applicant's Case**

Mr Jones advised the meeting of Essex Police's case as made in the paperwork attached to the agenda. He noted that a lot of the information was still under police investigation and so could not be made public.

He advised that the mention of the premises lease in the license holder's paperwork was not relevant to the licence being considered at this meeting. He brought the Sub-Committee's attention to the premise's holders address in the paperwork but noted that the police had tried to contact him using these contact points (by phone and mail) but had no success. He also seemed to have two different addresses.

In this paperwork, at one point Mr Kalayci said that he believed he was the owner of the lease but was not sure if he was the licence holder at present. He admits to being the manager of the of the premises at the time of the assault and acknowledged that the previous manager was involved in criminal activities.

**(c) Questions for the Applicant from the Sub-Committee**

The Sub-Committee asked for further explanation of the points on the lease of the premises. Mr Jones said that as far as he knew, the lease to the premises seemed to have been split down the middle. The premises licence holder was not the active manager and had appointed a friend to manage on his behalf.

The Sub-Committee asked if the licence holder was there when the incident had occurred. They were told by Mr Jones that it was his understanding the he was there at that time.

The Sub-Committee asked if Mr Kalayci had held his personal licence since April 2019. Mr Jones confirmed this and said that from May 2019 he was the DPS for the Abbey Grill. The current accusations were made in May 2020.

**(d) Questions for the Applicant from the Premises Licence Holder**

Mr Southerland asked that in his attempts to make contact with Mr Kalayci, had there been any attempts to meet with him. Mr Jones said that he had tried by phone, by post and by emails, but there had been no response.

Mr Southerland asked what was the address that he had used to contact Mr Kalayci. Mr Jones read out the address that he had.

Mr Southerland then asked if they had an 'on' licence. He was told that they did. Mr Southerland added that on 23<sup>rd</sup> March the premises would have been closed due to the lockdown ordered by the government. Mr Jones that yes, they should have been, but he had no evidence of this.

**(e) Presentations of the Premises Licence Holder**

Mr Southerland noted that the premises was required to be closed from 23<sup>rd</sup> March onwards and only be open for take-aways, and they could not sell alcohol from then onwards. Guidance was given to self-shield and Mr Kalayci did just that at his house. His manager was responsible for managing the premises. He was not challenging Police evidence, that would have to be challenged elsewhere, in a court of law. He did not dispute that things had happened, but his client could not have been at the premises as nothing licensable had been going on since the end of March.

He has set out in his statement what had happened and what he was going to do, such as putting in CCTV and any other condition that would be imposed on the licence.

In the future he would be at the premises and this could be checked up via the CCTV. There were some photos in their bundle showing the door leading to the upstairs had been padlocked and was now only for employees.

Addressing the concerns raised, the Sub-Committee must ask themselves if they can trust Mr Kalayci. Nothing had happened before this incident and no other allegations had been made. He had in the past ran his own minicab business with a licence issued by TfL, so he had satisfied them that he was of a good enough character to hold a licence.

**(f) Questions for the Licence Premises Holder from the Sub-Committee**

The Sub-Committee noted that his statement mentioned that the premises be occupied "at will", what did that mean. Mr Southerland said that they had no written agreement in place but had an oral agreement – an accommodation between two parties, an informal arrangement.

The legal officer commented that a lease agreement was not something that the Sub-Committee could take into account. Mr Southerland said that as Mr Jones had specifically requested information on this, so it was included.

The Sub-Committee noted that the background papers showed that there was a 15 year old girl working at the premises and asked if she served alcohol there. They were told that her only involvement was in relation to helping with translation. There was no family link with the then manager, Mr Gul.

The Sub-Committee asked if she was working there while he was the DPS. Mr Southerland did not accept that she was.

Asked if he carried out checks when he was the DPS, such as on records on refusal of service. The Sub-Committee were told that he did carry out these checks.

The Sub-Committee asked if the email address as read out by Mr Jones was correct. Mr Southerland said that Mr Kalayci could not log onto his email and had to change it. Asked if he had notified the Council of this change, Mr Southerland said that although it was a good idea to do so, it was not required by law.

The Sub-Committee asked him to confirm that the house address was correct. They were told that it was, as stated on the licence.

**(g) Questions for the Premises Holder from the Applicant**

Mr Jones indicated that he did not have any more questions.

**(h) Closing statement from the Premises Holder**

Mr Southerland commented that the guidance referred to the Sub-Committee's role as to what steps were to be taken for a premises licence review.

His submission was that the information available at this stage was very different from what was available at the first stage.

Things were changing in the country and this was a significant change. Mr Kalayci was looking forward to opening his premises with a licence that had the further conditions that he had outlined in his submission.

He was absent from the premises from March to June due to self-shielding. In the meantime, he will have Mr Parlak stand in as manager for the premises.

He knows that the trust he placed in Mr Gul was misplaced and now Mr Kalayci would be present as would CCTV and a lock placed on the door to stop people wondering upstairs.

Whilst these were serious allegations, he was not involved in them. He commended his remedial actions to the Sub-Committee and asked that Mr Kalayci continued to be the Licence Holder and DPS.

**(i) Closing Statement from the Applicant**

Mr Jones reminded the Sub-Committee of the relevant guidance (paragraphs 3.5 to 3.8 in the Police submission).

Essex Police requested that the interim steps taken stay in place until the appeal period expired. But if the Sub-Committee decided to keep the licence, he asked that they added a number of conditions.

**(j) Consideration of the Application by the Sub-Committee**

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application.

During their deliberations the Sub-Committee received advice from the officers' present on the options available to them. On Article 1 of the First Protocol of the Human Rights Act 1988 that every person was entitled to the peaceful enjoyment of his possessions (in this case the Licence). No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

That any decision made in respect of the premises licence Abbey Grill, 18 Sun Street, Waltham Abbey, EN9 1EE must be necessary and proportionate.

**RESOLVED:**

The decision of this sub-committee is that the premises licence for Abbey Grill, 18 Sun Street, Waltham Abbey, EN9 1EE is **revoked**.

This decision was arrived at in the light of the evidence presented at the hearing, namely:

- The very serious crime associated with the premises.
- The lack of confidence that the DPS has proper control of the premises.
- The lack of faith in management being able to successfully implement additional conditions.

That the interim steps i.e. (a) the exclusion of the Sale of Alcohol by retail from the scope of the licence; (b) the removal of the Designated Premises Supervisor (DPS) and the suspension of the Premises Licence, imposed on 15<sup>th</sup> June 2020, under Section 53 (B) of the Licensing Act 2003 shall remain in effect until the hearing of the appeal against the revocation (if there is one).

The applicant or premises licence holder or any other person who made relevant representations to the application were reminded of their right of appeal to the Magistrates' Court within 21 days of the date of the written notification of this decision.

The decision will not have effect until after the end of the period given for appealing against the decision, or if the decision was appealed against, the time the appeal is disposed of. The suspension shall remain in effect until the time for appealing the review has expired and any appeal has been determined.

**CHAIRMAN**