

Boston Borough Council
Licensing Act 2003
Application for a Premises Licence
Decision Notice

Date of hearing	1000hrs – 25 September 2019
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Members of Sub-Committee	Councillor Jonathan Noble Councillor Frank Pickett Councillor Stephen Woodliffe
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Applicant(s) Name	Mrs Nawal Ahmd
Premises Address	European Food, 43 Wide Bargate, Boston
Represented by	Mr Byatt
Date Application Received	5 August 2019
Details of Application	Application for a premises Licence under the Licensing Act 2003.

The Parties:

Mr Byatt, on behalf of the applicant, Mrs Ahmd, has submitted an application for a premises licence for European Foods at 43 Wide Bargate, Boston.

The application submitted is for the sale of alcohol for consumption off the premises between the hours of 0800hrs and 2300 hours every day. The opening hours being the same.

Representation has been received from the Chief Officer of Police.

Policy and Guidance:

In reaching its decision, the sub-committee has considered the statutory guidance issued under S182 of the Licensing Act 2003 and Boston Borough Council's Statement of Licensing Policy.

Licensing Objectives:

The sub-committee has found that the licensing objective of the prevention of crime and disorder is relevant to this application.

Decision:

The sub-committee has decided to grant the premises licence subject to such conditions as are consistent with the operating schedule accompanying the application, having modified the conditions to such extent as the authority considers appropriate for the promotion of the licensing objectives.

Reasons:

The reasons for the sub-committee reaching this decision are as follows:

The sub-committee has read and heard all of the information before them.

The sub-committee is aware of and has taken into account any implications that may arise from the Human Rights Act 1998.

The sub-committee in reaching its decision has had due regard for its public sector equality duty under section 149 of the Equality Act 2010 and consider that in reaching their decision to grant the premises licence that they have fulfilled their duty under the Act.

In reaching their decision, the sub-committee has read all of the papers before them, and in addition heard from Fiona White, Licensing & Land Charges Manager and Mr Byatt on behalf of the applicant, the applicant herself, and her husband Mr Hatemi, and considered the representation received from the Chief Officer of Lincolnshire Police. Sgt Enderby

attended the hearing to represent the police.

The sub-committee heard from Mr Byatt how the application has been submitted in the name of Mrs Ahmd (the applicant) only, but it was the applicant and her husband's intention that they would run the premises together, and it was a family business. The applicant and her family live above the premises.

The sub-committee heard that neither the applicant nor her husband had yet completed the personal licence course, but they intended to if the licence were to be granted. It was confirmed to the sub-committee that the applicant had no prior experience of running a licenced premises, but that she had assisted her father in running a supermarket previously. It was stressed to the sub-committee that the applicant is very conscious that should any criminality be encountered at the premises, that she risked losing her home above the premises, and how without a licence allowing off-sales of alcohol that the business is currently not making money and they may have to give up the business.

The sub-committee heard how the previous incidents that led to the revocation of the premises licence in 2018 were not related to the applicant.

Lincolnshire Police informed the sub-committee how their concerns primarily relate to Mr Hatemi's connections with other individuals, and their encounters with him allegedly being dishonest when dealing with the police. The sub-committee heard how an application was submitted in May 2019, and how a visit to the premises the next day had encountered an illegal worker working alone at the premises. The police went on to detail how the worker had contacted Mr Hatemi instead of the then owner of the premises, or the then applicant. The police also gave details of connections between Mr Hatemi and the other individuals, the extent of which Mr Hatemi denied, and explained whilst they are known to him, he has had no business dealings with them. There was some confusion as the applicant's agent has previously confirmed that he had assisted Mr Hatemi and Mr Karim with the May 2019 application which was subsequently withdrawn.

The police stressed their concerns are that Mr Hatemi's connections/associations with the other individuals, and the criminality encountered at the premises when it was under the other individual's control, mean there is a real risk that the licensing objectives will be undermined should this application be granted.

The sub-committee had due regard for all of the evidence put before them especially the

information submitted on behalf of the police.

In reaching their decision however, the sub-committee heard from the applicant herself how she would deal with certain scenarios that could be encountered, and of her commitment to ensure that the premises would be run lawfully and in compliance with any premises licence conditions.

The sub-committee note the police's concerns regarding Mr Hatemi's connections with other individuals, but also note that the application has been submitted in Mrs Ahmd's name, and the sub-committee felt based on the submissions made that it would ultimately be her in control of the premises.

Accordingly, the sub-committee has decided that it is reasonable and proportionate to the safeguarding and promotion of the licensing objectives to grant the premises licence. The licence is granted subject to the following conditions:-

- All mandatory conditions
- All of the conditions submitted by Lincolnshire Police (appended to this decision notice)
- The following conditions taken from the application form:
 - Customers will not be permitted to consume alcohol on the premises as per the mandatory conditions for off-licence sales only.
 - An operational daily log report must be maintained, endorsed by signature, indicating the CCTV system has been checked and is compliant, in the event of any failings actions taken are to be recorded
 - Persons shall be discouraged from congregating outside of the premises
 - No alcohol purchases to be consumed within the curtilage of the premises.

Additionally, the sub-committee is aware that the applicant is not yet capable of being the designated premises supervisor as indicated on the application. Therefore, whilst they grant the premises licence, it remains inoperable until such time as an application to appoint a DPS has been submitted and granted by the Licensing Authority.

The sub-committee heard how Mr Hatemi now has the right to work in the UK, and how the business is now registered at Companies House with both the applicant and Mr Hatemi listed as the directors.

During the hearing, the applicant (via her agent) confirmed that she wished to amend her application to also include the conditions submitted by the police prior to the hearing.

In reaching their decision, the sub-committee had due regard for all that they had read and heard, the Licensing Act 2003, the S182 Guidance and the Council's licensing policy.

Appeal Provisions

The sub-committee would like to remind the parties that there is a right of appeal to the Magistrates' Court under Section 181 of the Licensing Act 2003. The circumstances in which parties may appeal are detailed in Schedule 5 to the Licensing Act 2003.

The appeal must be commenced by notice of appeal to the Justice's Chief Executive for the Magistrates Court within the period of 21 days beginning with day on which the party was notified by the Licensing Authority of the decision being appealed against (i.e. the date of this decision notice).

Appeal should be made to Lincoln Magistrates' court at 358 High St, Lincoln, LN5 7QA

Upon hearing an appeal the Magistrates' Court may:

- a) Dismiss the appeal,
- b) Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
- c) Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

And make such order as to costs it thinks fit.

Signed:

Fiona White
Licensing & Land Charges Manager
On behalf of the Licensing Sub-Committee
Date 26 September 2019

Recommended Conditions

Steps Taken To Promote the Licensing Objectives

b) The prevention of crime and disorder

A CCTV system shall be installed, recording and maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police, specifically:

a) There shall be a minimum of one high resolution colour camera, fitted in a weatherproof housing, for external coverage of the entrance.

b) There shall be a minimum of one high-resolution colour camera fitted to each public entrance/exit. To provide a quality head and shoulder image for facial recognition/identification purposes of all persons entering the premises.

c) There shall be sufficient cameras able to cope with the normal operating illumination to reasonably cover all licensed public areas.

d) Recordings must be kept for a minimum of 31 days and endorsed with the accurate, correct time/date (BST/GMT adjusted).

e) Police and/or Authorised Licensing Officers shall be able on attendance to view immediate playback of any incident without the necessity for download.

f) Recordings of incidents at the premises must be provided to the police following lawful request.

g) A member of management shall be on the premises at all times they are open to the public who is capable of operating the CCTV system and providing recordings on request. When this is not possible recordings shall be provided within 24 hours of the original request.

h) Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.

i) In the event of a system malfunction, the Designated Premises Supervisor or the Premises Licence Holder must immediately notify Lincolnshire Police Licensing Department tel 101, ask for Lincolnshire, ask for the alcohol licensing or email countylicensinggroup@lincs.pnn.police.uk. Details of this malfunction must be recorded in the premises refusals/incident book. Arrangements for its repair must be made without delay. The Licensing Authority and Police Licensing must be notified when the system is again operational.

There shall be no sale of loose cans of beers, lagers or ciders in packs of less than 4, nor a sale of any single bottles of beers, lagers or ciders under 700ml.

No beers, lagers or ciders (including perries) of 6.5% ABV or above shall be sold at the premises.

c) Public safety

An incident/refusals book shall be kept at the premises, in which details of crime and/or disorder relating to the premises shall be recorded. The incident/refusals book shall contain the following details;

- * Time, date and location of incident/refusals.
- * Nature of the incident/refusal.
- * Names, addresses and contact details of persons involved.
- * Result of the incident/refusals.
- * Action taken to prevent such incidents.
- * Each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS; and
- * Retained for a period of no less than 12 months and made available to Lincolnshire Police for inspection upon request.

d) The prevention of public nuisance

1 litter bin will be provided outside the property, it will be emptied daily when the premises closes.

The outside area of the premises will be checked daily for litter, any found will be disposed of in an appropriate manner.

Signage will be displayed outside the premises asking people not to congregate in the immediate area.

Signage will be displayed at the exit asking customers to consider nearby residents and to please leave the area quietly.

e) The protection of children from harm

The premises shall operate the "Challenge 25" Proof of Age Policy to prevent the sale or supply of alcohol to persons under 18 years of age. The policy shall require any person who appears to be under the age of 25 years to produce one of the following forms of identification:

- * A recognised proof of age card credited under the British Retail Consortiums Proof of Age Standards Scheme (PASS);
- * Photo driving licence;
- * Passport.

Notices shall be prominently displayed advising customers of the Challenge 25 policy. All point of sale staff shall undergo twelve monthly training in the challenge 25 proof of age scheme and all other relevant policies with a record kept of the date of training, signed by the member of staff being training and the trainer. Each entry shall be retained for a period of 12 months from date of completion. This record shall be made available for inspection by Lincolnshire Police Officers or other relevant authority.