

3 APPLICATION FOR A PREMISES LICENCE - ANN'S EURO MARKET, 56A FISHTOFT ROAD

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

Date of hearing	1000hrs – 25 November 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	Mr Atnum Sadi
Premises Address	Ann's Euro Market, 56a Fishtoft Road, Boston
Represented by	Mr Byatt
Date Application Received	8 October 2019
Details of Application	Application for a premises Licence under the Licensing Act 2003.

The Parties:

Mr Byatt has, on behalf of the applicant Mr Sadi, submitted an application for a premises licence for Ann's Euro Market, 56a Fishtoft Road, 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 objectives of the prevention of crime and disorder and public safety are relevant to this application.

Decision:

The sub-committee has decided to refuse the application for a premises licence.

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 reject the premises licence application 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, Lincolnshire Police, Mr Byatt on behalf of the applicant and the applicant himself. The sub-committee has considered the representation received from the Chief Officer of Lincolnshire Police. Sgt Enderby and PC McConville attended the hearing to represent the police.

It was confirmed to the members of the sub-committee that the applicant has owned the lease for the premises since 2017, and has run a fish and chip shop from part of the premises for 2.5 years.

The sub-committee is aware from the papers that a planning application had been submitted in the name of Mr Abdulla, and planning permission granted in February 2019 for the proposed premises the subject of this application.

Mr Byatt confirmed how it was the applicant's original intention to allow his friend (Mr Abdulla) to take on the premises, whilst he (the applicant) continued to run the fish and chip shop. Initial enquiries with the police led to the applicant subsequently submitting the application himself, with the intention that he would also run the premises (if a licence were granted) and the fish and chip shop.

Mr Byatt, speaking on behalf of the applicant, confirmed to the sub-committee that Mr Abdulla was a friend / acquaintance of the applicant, and how Mr Abdulla had previously been involved in the premises known as 36 Red Lion Street at the time when the premises licence was revoked due to the selling of illegal / unlawful cigarettes from the premises and at 43 Wide Bargate where there was an illegal worker employed. It was stressed to the sub-committee how the applicant had no involvement / convictions / or connections to criminality, and that if the application were granted how Mr Abdulla would have no involvement or connections to the business. The applicant has run the fish and chip shop responsibly within the local community for 2 ½ years and he has the same intention for the premises.

From the papers, and from Lincolnshire Police's submissions during the hearing, the sub-committee is aware that the police undertook due diligence on the applicant upon receipt of the application. Enquiries had previously been made by Mr Byatt with Lincolnshire Police about Mr Abdulla applying for a premises licence for the premises, and the police's investigation into this application being considered today uncovered further personal / business connections between the applicant and Mr Abdulla than had initially been indicated. Lincolnshire Police confirmed to the sub-committee how upon receipt of the

application that they had visited the premises and spoken with the applicant, and had arranged a subsequent meeting with him at the police station. The police detailed to the sub-committee how the applicant had given a number of conflicting accounts of the extent and nature of his relationship with Mr Abdulla; in the police's opinion the applicant was vague about the extent of his relationship with Mr Abdulla initially, confirming that he knew of Mr Abdulla as he was interested in the premises – he initially made no mention of the planning permission granted in respect of the premises to Mr Abdulla, nor of the fact that Mr Abdulla is the account holder in respect of the water and gas and electricity accounts for the premises. During their visit to the premises, the police found invoices / receipts for goods but under the account name of 36 Red Lion Street. The applicant initially explained this was a mistake on the part of the retailer.

At the meeting at the police station, the applicant subsequently explained that he had given the 36 Red Lion Street address because he knows the shop, and Mr Abdulla, who he confirmed used to work there. When it was put to him that the police had evidence that Mr Abdulla's car had been encountered at the retailers and the goods purchased on the receipts found at the premises had been loaded into it, the applicant explained that perhaps Mr Abdulla had done some shopping for him. At the hearing today, the applicant confirmed that he had requested Mr Abdulla do some shopping for him on four different occasions in September and October 2019.

At the police station meeting, the applicant was asked about the planning permission and confirmed that he did know about the permission.

Additionally, the applicant was asked at the police station meeting, and during the hearing, about his relationship with Mr Abdulla. The applicant confirmed he does know Mr Abdulla, he has known him for about 8/9 years, and he considered him a friend. He knew him from 36 Red Lion Street, and had bought illegal cigarettes from him there. He admitted knowing of Mr Abdulla's connections with criminality, and this was why he was now pursuing the premises licence application himself.

At the police station meeting in November, the applicant told the police he had had no dealings with Mr Abdulla "for months", and that he'd had no dealings with him other than the sub-let of the premises negotiations. This was subsequently proven to be untrue by the police by way of the CCTV evidence of the purchases made by Mr Abdulla, and the applicant further admitted at the hearing how Mr Abdulla had assisted him four times with making purchases for the premises. Additionally, evidence was put before the sub-

committee that Mr Abdulla is the named contact / account holder in respect of the water and electricity and gas for the premises. The applicant explained that they had done so to obtain a discount – he further explained how if you have more than one account for business, then you get a discount. Mr Abdulla had an account already, so the applicant pays Mr Abdulla, who in turn pays the electricity / water company. It was put to the sub-committee that the arrangement had been one of convenience. When questioned why the utilities are in Mr Abdulla's name and not the applicant's or his business partner's, the applicant explained they had tried to change them but they had inherited a large bill, and the company required someone they knew and the applicant / his business partner were unknown. This is a further link with Mr Abdulla, that was not originally disclosed by the applicant. The police confirmed that their investigations had found that Ann's fish and chip shop is also referenced against the accounts, and in their opinion it gives the indication that Mr Abdulla has a degree of control of the business.

Lincolnshire Police also confirmed that in submitting the planning application in his name, gave the impression that Mr Abdulla had control over the land i.e. the premises. When questioned, the applicant explained this was because Mr Abdulla was going to run the premises.

The police concluded that they felt that the applicant had lied to them, and had consistently tried to hide his associations with Mr Abdulla. Lincolnshire Police stressed that they had serious concerns about the evidenced links between the applicant and 36 Red Lion Street and the criminal connections evidenced to Mr Abdulla; both illegal workers and illegal cigarettes. The applicant has since admitted at the hearing that he had panicked when questioned by the police, and this is why he has provided the misleading and conflicting accounts previously.

Taking into account all that they have read and heard, and of the S182 Guidance, and having due regard of the licensing objectives, the sub-committee has decided that on the balance of probabilities the applicant would not uphold or promote the licensing objectives of the prevention of crime and disorder and public safety, and accordingly refuse the application for a premises licence.

The sub-committee had regard for all of the above, and consider that the applicant does have close links with Mr Abdulla, who has evidenced links to criminality. The sub-committee had strong regard and concerns about Mr Abdulla's involvement with the premises in being the account holder for the utilities and purchasing goods to stock the

premises. Mr Abdulla has links to premises found to be selling illegal cigarettes and employing illegal workers, and the applicant admitted to knowing this, but continuing to ask him for assistance with purchasing goods for this premises. The sub-committee also was very concerned to note that the applicant admitted to panicking at his meeting with the police, and to attempting to downplay the nature and extent of his relationship with Mr Abdulla.

Accordingly the application for a premises licence is refused.

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
26 November 2019

