

Minutes of: **LICENSING HEARING PANEL**

Date of Meeting: 26 April 2018

Present: Councillor D Jones (in the Chair)
Councillors: N Bayley and J Grimshaw

Also in attendance: Mr J Maudsley (Greater Manchester Fire and Rescue Service, GMFRS)
Public Attendance: PC Caulfield (GMP)
PC Hussain (GMP)
Mr A Stock (GMP Solicitor)
Ms K Halligan (Trading Standards Officer)
Ms L Jones (Licensing Department)
Mr M Hussain (Applicant)
Mr I Hussain (Applicant's brother)
Mr Horne (Applicant's Solicitor)

Apologies for Absence: -

1 DECLARATION OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

2 APPLICATION FOR THE TRANSFER OF A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 IN RESPECT OF BEST ONE, 99 CHESHAM FOLD ROAD BURY BL9 6JZ

Prior to the Hearing the authority received an application submitted for a transfer of a Premises Licence under section 42 of the Licensing Act 2003, in respect of Best One, 99 Chesham Fold Road Bury BL9 6JZ.

The application was as detailed in the report which was presented to the Members of the Panel by the Licensing Unit Manager.

Representations in respect of the application were received within the appropriate period from Greater Manchester Police.

All written representations were contained within the written submissions provided in the report to the Panel.

All documentary evidence comprising the application and the report were provided with the agenda and representations were served on all parties in advance of the hearing.

The Panel heard oral representations from representatives of Greater Manchester Police and their witnesses from Trading Standards and the Licensing Department at Bury Council.

The Panel asked questions of the representatives of Greater Manchester Police and their witnesses. All parties were offered the opportunity to questions those representatives.

The Panel heard oral representations from the Applicant's solicitor, Mr. Horne.

The Panel asked questions of the Applicant's representative. All parties were offered the opportunity to question the applicant.

All parties were offered the opportunity to sum up their case.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in April 2018

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

- The premises known as Best One, 99 Chesham Fold Road, Bury have been covered by a premises licence pursuant to the Licensing Act 2003 for a number of years. The Licence was held by Ishfaq Hussain, 121 Ormerod Street, Accrington, BB5 0QQ, who is also the Designated Premises Supervisor (DPS).
- On the 5.3.2018, the Licensing Authority received an email from the Insolvency Service stating that the official receiver had received notice of a bankruptcy order against Ishfaq Hussain on 2.3.18 this resulted in the lapse of the premises licence, pursuant to section 27 of the Licensing Act 2003.

- On the 6.3.2018, the Licensing Authority received an application to transfer the premises license with immediate effect into the name of Mohbeen Hussain, of 121 Ormerod Street, Accrington, BB5 0QQ.
- A notice under section 42(6) of the Licensing Act 2003 was lodged with the Licensing Authority by Greater Manchester Police on 20.3.2018, as the chief officer of police was satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.
- The premises were inspected as part of a multi-agency day of action on 8.12.17 with officers from the Licensing Department, Trading Standards and GMFRS. Mohbeen Hussain was present in the shop at the time of the visit along with a Dane Blaney.
- A fire risk assessment was undertaken, no smoke detectors were fitted in the premises or the shop above; a colleague from GMFRS attended to fit smoke detectors which were subsequently removed. These have since been reinstated.
- A meeting was arranged between Ishfaq Hussain and the Licensing Authority on the 15.2.2018 to discuss his involvement in the business.
- On 17.2.2018 an officer from GMP attended the premises. Mohbeen Hussain was again present in the shop at the time of the visit along with a Dane Blaney.
- On 2.3.2018 an officer from GMP attended the premises. Mohbeen Hussain was again present in the shop at the time of the visit along with a Dane Blaney.
- On the 16.3.2018 the premises were again inspected as part of a multi-agency visit. Officers found non-prescription tablets and a machete in the upstairs area. Mohbeen Hussain was present during the visit along with Dane Blaney. No action was taken by GMP regarding the items found at the premises.
- Dane Blaney is employed at the licensed premises and has a drugs related previous conviction dating back to 2014.
- Following the Multi-agency visit on the 16.3.2018 GMP did not request an expedited Section 53A (Licensing Act 2003) review.
- Mohbeen Hussain's twin brother Ikhlaq Hussain, used to reside at the in the flat above the premises and has been convicted for possession of a firearm and ammunition, in January 2018 and currently in prison.
- Mohbeen Hussain's sister is the lease holder of the premises.
- Mr Ishfaq Hussain has been unwell but no documentary evidence was presented in support of this assertion.
- The licensed premises are open from 8am to 10pm.
- Mohbeen Hussein works in the premises in the morning, Ishfaq in the afternoon.
- There is no CCTV at the premises.
- The premises have been burgled on a number of occasions and items stolen.
- Mohbeen Hussein has spent convictions from 2005 and 2010.

DECISION

Having heard all the oral submissions and having considered all of the documentation before it, the Panel considered the merits of the case and in accordance with its duties.

The evidence was considered with care and following the evidence of all parties, having understood the application and equally understanding the representations made, the Panel therefore considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence, the Applicant being an appropriate body/person to promote the Crime and Disorder Objective of the Licensing Act 2003, **To Allow the Application for the Transfer of a Premises Licence** as set out in the report.

COUNCILLOR
Chair

(Note: The meeting started at 2.00 pm and ended at 4.30 pm)