

Minutes of the meeting of the Licensing Sub-Committee

Date: Wednesday, 6 March 2024

Venue: Virtual Meeting

Attendees: Councillors

A Kelly (Chair), S Kohli and R Baaklini

Also present:

Officers:

Hatoon Zeb (Senior Lawyer (Litigation & Prosecutions)), Jack Roberts (Democratic Services Officer), Merkesha Grant (Observer)

Applicant:

Mr Daljeet Singh Kakar (applicant), Mr Surendra Panchal (agent for the applicant)

Responsible authorities:

PC James Bradshaw (Metropolitan Police), Abbi Shaw (Ealing Council, Safer Communities Team Leader)

Interested party:

Councillor Yoel Gordon (Ealing Council, Local Ward Councillor)

1 Premises Licence Application, The Nest Food & Wine, 106 -108 Uxbridge Road, Hanwell, London W7 3SU

As a preliminary matter, prior to the meeting being livestreamed, the Chair, Councillor Anthony Kelly, declared that he had sat as chair of a licensing sub-committee which considered an application to review the premises licence of the existing operator at this premises, trading under the name The Best Food & Wine. The sub-committee's decision in relation to the application to review The Best Food & Wine was to revoke the licence.

Councillor Kelly asked the applicant Mr Kakar, through his agent Mr Panchal, whether they had any objections to his sitting as Chair for the hearing. No objections were raised. Councillor Kelly considered that his part in the previous review in relation to The Best Food & Wine did not prejudice his decision making for this hearing, and that he would consider the matter with an open mind and on the merits of the application before him.

The Chair invited the clerk to start the live stream of the meeting. He introduced the sub-committee and those in attendance and explained the

procedure to be followed at the hearing.

Applicant's presentation

Mr Surendra Panchal, agent for the applicant, was invited to present the application. Mr Panchal explained that the application was brought by a responsible applicant with good experience of running licenced premises. The applicant, Mr Kakar, had 2 years' experience of running an off-licence as well as experience through a family business of running a bar and restaurant.

The applicant had taken a considered approach to taking on the business at 106-108 Uxbridge Road. He had learnt about the history of the premises, including the difficulties in the local area with street drinking, and had attended a meeting with responsible authorities to listen to their concerns about the impact of conducting licensable activities on the site.

Mr Panchal considered that there was a sufficient set of conditions proposed as part of the application and that these conditions adequately addressed the concerns that the licence could contribute to anti-social behaviour challenges in the area.

The sub-committee and objectors were invited to ask questions of the applicant and his agent.

PC James Bradshaw, Metropolitan Police, asked the following questions:

- If the applicant was intending to change the store's offer to reduce its reliance on alcohol sales, what were the applicant's plans for change?
- Did the applicant have any formal plans showing how the new shop was going to be laid out?
- When were the planned changes going to be implemented?
- With the proposed changes, why was an alcohol licence still necessary?
- Was Mr Kakar aware of the challenges in the area relating to street drinking and anti-social behaviour?

In response to PC Bradshaw's questions, Mr Panchal and Mr Kakar gave the following responses:

- The applicant intended to increase the store's provision of groceries and household goods, allowing it to reduce its provision of alcohol to a small amount.

- The applicant did have plans for a new shop layout, which he was still developing. Mr Kakar explained to the sub-committee the proposals for the design so far.
- The applicant intended to implement changes quickly once the licence was received because the changes were important to make the business viable.
- Mr Kakar considered there was still a need for an alcohol licence because often customers buying groceries would pick up a bottle of wine at the same time.
- The applicant was aware of the history of the premises and the challenges in the local area regarding street drinking and anti-social behaviour. He had learnt more about these issues thanks to a recent meeting with responsible authorities.

Ms Abbi Shaw, Safer Communities Team Leader Ealing Council, asked the following questions:

- If the plan was to increase the store's offer of groceries, was there a risk that the store would be in competition with other grocery stores in the area?
- Was the store going to continue selling specialist alcohol as it had done under previous operator?

In response to Ms Shaw's questions, Mr Panchal and Mr Kakar provided the following responses:

- The applicant wanted to build a specialism for selling Indian groceries, which he hoped was going to provide a unique selling point for competing with other businesses in the area.
- Historically, the store had a reputation for selling specialist alcohol, particularly expensive whiskeys. The applicant wished to make use of this reputation and noted that the price of such whiskeys meant they were unlikely to contribute to local street drinking or anti-social behaviour.

Councillor Yoel Gordon, the local ward councillor, asked the following questions:

- There had been instances in the past on this premises where the premises licence had been revoked from one operator and another had put in a new application, only for the premises to continue being ran by the same people. What assurances could the applicant give that this was not going to be the case for this application, given the recent review of the licence for The Best Food & Wine?
- Did the applicant have any familial or business connections with the owner of The Best Food & Wine?
- Did Mr Kakar work in the premises under the operator for The Best Food & Wine?

In response to Councillor Gordon's questions, Mr Panchal and Mr Kakar responded:

- The change of name to The Nest Food & Wine was to reinstate the name which the premises used to have prior to becoming The Best Food & Wine. The reinstatement of the name did not indicate any involvement of previous operators or licence holders in Mr Kakar's business.
- Mr Kakar had no familial or business connections with the existing operator of the premises. He had become aware of the premises through his religious community.
- Mr Kakar was going to be the leaseholder, premises licence holder and designated premises supervisor for the premises. He was going to have sole responsibility for the premises.
- Mr Kakar did not work in The Best Food & Wine and had not worked for the existing operator.

In relation to Mr Kakar's response that he had not worked at the premises under the existing operator, Councillor Rima Baaklini stated that she had seen him working there prior to when the Best Food & Wine had its licence revoked. Mr Kakar denied this.

Following the objectors, the sub-committee was invited to ask questions. The following questions were asked:

- Did the applicant intend on employing the same staff at the store as had been employed by the operator for The Best Food & Wine?

- Did TUPE (Transfer of Undertakings (Protection of Employment)) regulations mean the applicant could be required to continue contracts of employees working at the store under the existing operator?
- What sort of alcohol did the applicant intend on selling?
- Why did the applicant believe selling alcohol was still necessary for the store?
- How did the applicant intend to staff the premises?

In response to the sub-committee's questions, Mr Panchal and Mr Kakar responded:

- Mr Kakar did not intend on employing any staff who had worked for The Best Food & Wine.
- None of the staff working under the existing operator were permanent staff. This meant that the TUPE regulations did not require Mr Kakar to take on staff from the existing operator.
- Mr Kakar was not going to sell miniatures or strong beers over 6% ABV. He did intend to sell some cheap wine as well as some major brands of bottled beer.
- Mr Kakar wanted to continue selling alcohol on the premises because it was an old shop and there was a client base who knew it for its sale of specialist whiskeys. Mr Kakar wanted to maintain this client base.
- Many of the staff at the shop were going to be family members of Mr Kakar, although he did intend employ some individuals from the local community.

There were no further questions for Mr Panchal and Mr Kakar at this stage.

Representations in objection

PC Bradshaw was invited to make his oral representations in relation to the application. PC Bradshaw considered it likely that Mr Kakar's application was linked to the existing operator and that it was an attempt to circumvent the previous sub-committee's verdict to revoke the licence of The Best Food & Wine at review. PC Bradshaw did not consider there was any indication from

the application that there was likely to be a change in licensing approach from the existing occupier. PC Bradshaw considered the changes which had been suggested by the applicant to be vague, and the lack of timeframe cause for concern the changes were unlikely to be made.

Ms Shaw was invited to make her oral representations in relation to the application. Ms Shaw informed the sub-committee of high levels of anti-social behaviour which were reported in the local area to the premises, with specific reports relating to the immediate area around the premises. Ms Shaw also informed the sub-committee that some aspects of the Mr Kakar's proposals had changed since their meeting the week before the hearing, for instance that at the meeting Mr Kakar had said he did intend to employ employees from the existing operator. Ms Shaw noted matters relating to the appeal to the Magistrates Court regarding the review decision for The Best Food & Wine.

Councillor Gordon was invited to make his oral representations in relation to the application. Councillor Gordon informed the sub-committee that this premises had caused significant issues for local residents over a sustained period. Taking into consideration some of the difficulties which had taken place there in the past, he considered it was unlikely that the applicant had the resource to satisfactorily mitigate against problems like anti-social behaviour. For instance, there were no proposals for security arrangements to be put in place.

There were no questions raised of the objectors.

Based on the representations which were made, the sub-committee asked Mr Panchal and Mr Kakar for their views on a condition being added to the licence preventing staff who had worked at The Best Food & Wine from being employed by or present on the premises. No objections were raised, and Mr Panchal indicated that the applicant would accept the condition.

Summing up

Mr Kakar summed up his application. His proposals were for a mixed shop which included groceries and specialist alcohol.

After summing up, the sub-committee retired to deliberate and come its decision.

Decision

In coming to its decision, the sub-committee carefully considered the application before it as set out in the agenda papers published prior to the hearing. It considered both the written and oral submissions of all those who made representations in relation to the application, including those made in support by Mr Daljeet Singh Kakar, the applicant, and Mr Surendra Panchal, his agent. It also considered the three representations in objection to the application. These were made by two responsible authorities, PC James

Bradshaw, on behalf of the Metropolitan Police and Abbi Shaw, on behalf of the Ealing Council Community Safety Team. One representation was made in objection by the ward councillor, Councillor Yoel Gordon.

The sub-committee considered the Home Office (January 2024) Revised Guidance issued under S182 of the Licensing Act 2003 and, Ealing Council Statement of Licensing Policy.

On careful consideration of the matter, the sub-committee resolved to grant the application as applied for, subject to the one additional condition that:

- No staff who are employed at the premises currently under the Best Food & Wine licence be employed at the premises under this licence for The Nest Food & Wine or be present during licensable hours.

Reasons for the decision

The sub-committee came to its decision based on the following reasons.

The sub-committee was aware that the guidance issued under Section 182 of the Licensing Act 2003 stipulated that a cumulative impact assessment should never be absolute. The sub-committee noted that for applications where a cumulative impact assessment applied, it was required to consider the circumstances of each application properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives in the area to be granted. In this application the sub-committee considered it was justified in departing from its cumulative impact assessment in the light of the following:

- The sub-committee accepted that this was a new application made by an applicant who had no familial or business connection with the premises licence holder of the existing business at the premises, the Best Food & Wine. Although it noted the concerns raised by the responsible authorities and by Councillor Gordon that the existing premises contributed to local issues regarding anti-social behaviour and street drinking, the sub-committee did not find clear or sufficient evidence that the applicant was going to be influenced by the poor licensing practices of the previous business.
- Given the evidence provided about the impact of the Best Food & Wine's failure to promote the licensing objectives, the sub-committee considered that an additional condition preventing any staff from Best Food & Wine from either continuing employment with the business or being present on the premises was a proportionate means to ensure that Mr Kakar's business was uninfluenced by the business practices under the previous licence. It noted that both Mr Kakar and Mr Panchal accepted this additional condition when it was proposed at the hearing.
- The Panel heard from the applicant, Mr Kakar, of his ambitions to

reconfigure the shop and change the business offer of the premises from solely selling specialist alcohol to providing a greater selection of groceries and home goods, reducing their selection of alcohol to a small quantity. The Panel noted the issues in the immediate area of the premises with street drinking and anti-social behaviour. It also listened to the submissions made by the responsible authorities and by Councillor Gordon that they were not satisfied from the proposals that such changes to the business offer would happen quickly or that they would be sufficient to mitigate the challenges in the area with anti-social behaviour. However, on the evidence provided at the hearing, the panel considered that Mr Kakar's proposals to reduce the premises' alcohol offer allayed concerns about the premises' impact on anti-social behaviour and was a step to promote the licensing objectives.

Overall, the sub-committee agreed that granting the licence as applied for, subject to the additional condition outlined above, was proportionate in relation to promoting the licensing objectives.

RIGHT OF APPEAL

The Applicant, licence holder or any person who made relevant representations may appeal against the sub-committee's decision. An appeal must be made to the Ealing Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Any party who launches an Appeal at the Magistrates court is requested to copy in the Council at the time that the appeal is filed at court. The person to copy in is Ms Hatoon Zeb at zebh@ealing.gov.uk or London Borough of Ealing, Perceval House, 5-NW 14-16 Uxbridge Road, Ealing, W5 2HL.

Meeting commenced: 11.00 am

Decision delivered: 1.01 pm

Signed:

Dated: Wednesday, 6 March 2024

A Kelly (Chair)