

LICENSING PANEL

WEDNESDAY, 19 DECEMBER 2018

PRESENT:- Councillors Vera Tomlinson (Chair), Nick Martin and Peter Watts.

22. Appointment of Chair

Resolved – That Councillor Vera Tomlinson Chair this meeting of the Panel.
(Councillor Tomlinson took the Chair.)

23. Minutes

Resolved – That the minutes of the meetings held on 16th and 20th October and 30th November 2018, be confirmed and signed as a correct record.

24. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

25. Application for Premises Licence for Jack Spice, 61 Fleet Street, Swindon, SN1 1RA

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Premises Licence for Jack Spice 61 Fleet Street, Swindon, (b) written representations from Wiltshire Police in support of their objection to the application for a Premises Licence, (c) oral submissions opposing the application by Wiltshire Police, (d) additional information tabled at the meeting by the applicant, (e) oral submissions supporting the application by Hanifi (Applicant) and Mr Sharpy (friend of the applicant), (f) answers received in response to questions to the Objectors and applicant, and (g) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Manager introduced the report noting:

- The application was made by Mr Mohammed Jahan Abu Hanifi for a Premises Licence for Jack Spice, 61 Fleet Street Swindon.
- The application covered the premises seven days a week for the sale of alcohol, Late Night Refreshment and the Playing of recorded music.
- The options available to the Panel when considering the application.
- That the premises had previously held a Premises Licence but the Licence had been revoked when a Panel had determined that the Crime and Disorder Licensing Objective was being undermined by activity at the premises.
- The applicant had been the manager of the premises at the time of the revocation of the Premises Licence in 2017.
- The Police had objected to the grant of the Premises Licence.

Submissions opposing the application can be broadly summarised as:

- Mr Hanifi had been the manager of the Premises when its Premises Licence had been revoked in August 2017.
- The Police had serious concerns as to Mr Hanifi's ability to uphold the Licensing Objectives, including the Crime and Disorder Licensing Objective, should the application be granted.
- Whilst previously managing the premises in June 2016 Police and the Home Office Immigration Enforcement Officers found staff working at the premises who had no legal right to work in the United Kingdom with four of them living in the United Kingdom illegally.
- During the visit by the Home Office Enforcement Officers on 15th June 2016 Mr Hanifi identified himself as the owner of the business.
- On 30th March 2016 the Council's Environmental Health Team received a Food Business Registration form for Jack Spice and this was signed by Mr Hanifi as the Managing Director.
- Checks at Company House showed that the premises are a family run business with different members of the family running it.
- Mr Hanifi was involved in the management of the premises when illegal workers were found at the premises on two separate occasions.
- Although Mr Hanifi said his father was not involved in the operation of the business he continued to visit the property weekly.
- Illegal workers had been found on the premises twice within a twelve month period and this led to the revocation of the previous Premises Licence.

Submissions in support of the application can be broadly summarised as:

- That since Jack Spice lost its Premises Licence the applicant's father no longer played an active role in the operation of the premises.
- When previously acting as manager in 2017 Mr Hanifi did not have the experience to undertake this role. However, since then, he had worked for other employers to gain experience and learn more about the restaurant trade.
- The staff who were caught working illegally at the premises in 2017 were supplied through an employment agency.
- Income from the premises had fallen by 60% following the loss of the Premises Licence.
- The restaurant would follow best practice and abide by all regulations should the Premises Licence be granted.
- There had been no reported issues at the premises in the previous year.
- When employing staff a photocopy of their passport was kept and all relevant legal checks were undertaken by the applicant.

Answers to questions to the applicant can be broadly summarised as:

- That prior to the revocation of the Premises Licence in 2017 Mr Hanifi accepted that he was too young and naïve to properly undertake the role.
- That staff were no longer employed through the London Agency responsible for the employment of illegal workers in 2017. Local people were employed now.
- That there had been no trouble at the restaurant since the loss of the

Premises Licence in 2017 and the restaurant had a good working relationship with its neighbours.

- The business would not make the same mistakes that lead to the previous review of its Premises Licence and would not cut corners when employing staff.
- Mr Hanifi had worked for Tiffins in London as a trainee manager. This restaurant could cater for 300 people, Jack Spice could cater for 36 and Mr Hanifi considered this had provided him with invaluable experience including the checking of documentation and the maintenance of records.
- Mr Hanifi used passports for employment checks as these were harder to forge.
- When managing the business in 2017 Mr Hanifi was inexperienced and his father ran the business.
- Mr Hanifi's father was no longer involved in the business and it was Mr Hanifi who owned the business and was in charge of its operations.
- Mr Hanifi had a number of friends in the industry from whom he could seek advice from should it be required.
- Customers could bring alcohol with them to the premises when they had a meal but the inability to sell alcoholic drinks with meals was having a detrimental effect on the business.
- Mr Hanifi had undertaken a personal licence course, food allergen training and had experience at working at Tiffins and he would act as the Designated Premises Supervisor. He obtained his Personal Licence in October 2018.
- The premises were closed on Tuesdays and Mr Hanifi was on the premises during the opening hours. Should he not be available he had a friend who could deputise for him.
- Mr Hanifi's mother, who worked as a part-time chef was a Director of the company.
- No staff were living on the premises.
- Mr Hanifi was not involved with other premises/businesses run by his family.

Resolved - After considering: -

1. The application for a Premises Licence and representations made by the applicant; and
2. Representations and material put forward on behalf of the Objectors;

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement;

And having in mind the promotion of the Licensing Objectives in particular: -

i. The prevention of crime and disorder;

1. The Panel has determined that the application for a Premises Licence be granted in respect of the playing of recorded music during the hours of operation.
2. That the Panel has determined that the application for a Premises Licence be

refused in respect of the application for the sale of alcohol and in respect of the application for a late Night Refreshment Licence.

Reasons: -

1. That having considered evidence that Mr Hanifi was managing the premises when illegal workers had been found working there in 2016 and 2017 and following extensive questions no robust evidence has been provided to satisfy the Panel that Mr Hanifi is competent, or has put into place robust management procedures, to uphold the Crime and Disorder Licensing Objective.
2. That Mr Hanifi in presenting evidence to the Panel made continual claims that at the time of managing the premises when illegal workers were found at the premises he was young and naïve. The Panel were not satisfied that Mr Hanifi has developed the experience or knowledge to operate the business in such a way as to uphold the Licensing Objectives.
3. The Panel granted the application to play background music as this was ancillary to the current business operation.

The Chair reminded both parties that they had the right of appeal to the Magistrates' Court against the determination of this panel and that any such appeal, must be commenced within 21 days of the determination.