

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 24 FEBRUARY 2016**

COUNCILLORS

PRESENT (Chair) Chris Bond, George Savva MBE and Glynis Vince

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Licensing Enforcement Officer), PC Gary Marsh (Metropolitan Police Licensing Officer), Antonia Mankanjuola (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: Barrister for Metropolitan Police Service
Mrs Ebru Govtepe (Director of Enfield Food Stores Limited - Applicant)
Barrister and Licensing Agent on behalf of applicant
3 further representatives of applicant

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WELCOME AND APOLOGIES FOR ABSENCE

Councillor Bond as Chair welcomed all those present and explained the order of the meeting.

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DECLARATION OF INTERESTS

NOTED that there were no declarations of interest in respect of items on the agenda.

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**NEW HERTFORD FOOD CENTRE LIMITED, 236 HERTFORD ROAD,
ENFIELD, EN3 5BL (REPORT NO. 189)**

RECEIVED the transfer application submitted by Enfield Food Stores Limited.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
 - a. This was an application to transfer a premises licence.
 - b. Confirmation that the premises had been known by various names, but all the paperwork related to the same site and premises licence at 236 Hertford Road, Enfield EN3 5BL.
 - c. The premises was licensed to sell alcohol 08:00 to 00:00 daily with opening hours of 08:00 to 01:00 daily.

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- d. Since the publication of the initial report, the matter of surrender of the licence by Mr Deniz Altun had been updated. Mr Altun had given notification in writing that it was his intention to surrender the licence, but did not follow that up with the physical surrender of the hard copy licence or give reasons why this could not be done. Mr Altun had changed his mind and instead signed the consent form to transfer the licence to Enfield Food Stores Limited.
 - e. On that basis, the licence was not surrendered, and was being dealt with as a normal transfer application. The application was being considered under Section 43 of the Licensing Act 2003. A transfer was allowed to come into immediate interim effect as soon as the Licensing Authority received it, unless it was formally determined or withdrawn.
 - f. On the premises licence granted in August 2015, Mr Altun was named as Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS). On 20 January 2016, a vary DPS application was submitted, naming Mr Necip Karagoz as the DPS. This application was not subject to any representations.
 - g. Also on 20 January 2016 the transfer application was submitted by Enfield Food Stores Limited. This application was shown on page 7 of the agenda pack. Mrs Ebru Govtepe was the named director of this company.
 - h. The Police were consulted in respect of the transfer application, and notice was given that grant of the transfer application would undermine the crime prevention objective. The authority states that it is appropriate, for the promotion of the licensing objectives, to object to the transfer of the premises licence.
 - i. The Licensing Authority were also seeking a review of the premises licence for 236 Hertford Road and were seeking revocation of the licence.
2. The statement on behalf of the Metropolitan Police Service, represented by Mr Rory Clarke, Cornerstone Barristers, including:
- a. The Police had raised an objection to the transfer application.
 - b. Clarification that the Police may object to a transfer in exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective. Such objections are expected to be rare and arise because the police have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved in crime.
 - c. Confirmation of the reasons why the circumstances in this case were considered exceptional. Firstly, there was an express condition which prevented this transfer; and secondly, this licence had been revoked on two previous occasions, with a number of seizures of non-duty paid alcohol and tobacco, when Mr Sefer Govtepe had been involved with the business, first as the licence holder and second as a business partner.
 - d. Police were concerned that granting this transfer application would put the control of the premises back into the hands of Mr Sefer Govtepe.
 - e. There had been no surrender of the licence. The effect of refusing this application would be that the licence holder remained as Mr Deniz Altun. Mr Altun was not the leaseholder and wanted nothing to do with the

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premises, but that was preferable to handing the premises to Mr Govtepe or his family, given the history of the premises.

f. It was understood that there was an intention to sell the premises, but that could be determined at a time when there was a buyer who could apply for a licence on their own merits.

g. The basis of the Police objection was set out in the letter on page 14/15 of the agenda pack.

h. The immediate history was that on 21/12/15, Trading Standards officers visited and found a very large number (4500 packets) of non duty paid cigarettes hidden in a false ceiling and store room in premises of which Mr Sefer Govtepe was the leaseholder. Officers were told this was the food store for the 236 Hertford Road shop and that only the shop owners had a key.

i. Condition 24 on the licence was that "Neither Mr Sefer Govtepe or Mr Suleyman Erdogan or their immediate family shall be involved in any way in the operation and / or management of the business or be permitted to work in the business in any capacity". There was good reason for that condition being imposed in that the licence had been revoked for the second time in 2015.

j. In 2011 the licence was revoked for the first time, when Mr Sefer Govtepe was the licence holder. When the licence was revoked for the second time, in May 2015, at that time it was admitted that though Mr Sefer Govtepe was not on the licence he was the business partner of the licence holder Mr Suleyman Erdogan. Therefore it was thought necessary on the new licence that Mr Sefer Govtepe should have no involvement.

k. The transfer application being considered today was submitted by a company, the sole director of which was Mrs Ebru Govtepe, the wife of Mr Sefer Govtepe. This would therefore be in breach of Condition 24 of the licence. Approving the transfer of the licence would automatically put the licence in breach. Breaching licence conditions is a criminal offence and would therefore put the licence holder at risk of prosecution. There had been no application to vary that licence or that condition.

l. Even if there had not been Condition 24 in place, the Police would have raised an objection because of the history of the premises. It did seem that Mr Sefer Govtepe was also heavily involved at the time of the raid on 21/12/15. The lease had been transferred back to him, and his son was working in the shop. The store room was leased by him and officers were told that he was the only one with a key.

m. Officers had not seen anything in the evidence to suggest that Mrs Ebru Govtepe was intending to operate the business entirely independently, and it was difficult to see how Mr Sefer Govtepe could not be involved, given he was her husband.

n. The statement of Charlotte Palmer, Licensing Enforcement Officer, was highlighted on pages 16-23 of the agenda pack, which detailed the history of the premises and the connections between the parties.

o. The witness statement of Victor Ktorakis, Licensing Enforcement Officer, was highlighted on pages 169-180 which gave further detail on the raid on 21/12/15.

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3. Mr Rory Clarke responded to questions from members of the sub-committee and from the applicant's representative including the following:
 - a. In response to Councillor Savva's request for further details about the raid in December 2015, Charlotte Palmer confirmed that on 21/12/15 non duty paid cigarettes were found in three locations: in a box with vegetables in the corridor; in several bags hidden in a false ceiling; and the vast majority in the toilet area behind fake walls in a metal safe built into the eaves. The finds were made with the assistance of sniffer dogs. On previous visits, officers had received anonymous complaints and had searched areas reported, including the butcher's chopping counter. When the licence was last revoked, cigarettes had been found in a chest of drawers built with a false bottom. So items were well hidden and well thought out to ensure they would not be seen.
 - b. In response to Councillor Vince's query regarding prosecution following the raid, it was advised that this was ongoing and was being dealt with by Customs and Excise.
 - c. The applicant's representative asked PC Marsh about the s182 guidance and wording of conditions, and he agreed that the advice was that conditions should be clear and concise and should not be vague.
 - d. The applicant's representative asked about the drawing up of Condition 24 on the licence. Charlotte Palmer advised that the condition had been offered in the premises licence application submitted by Mr Altun and the wording had been tweaked by Legal officers.
 - e. It was confirmed that Mrs Govtepe's name was not mentioned in any of the papers prior to 24/12/15.
 - f. PC Marsh confirmed that he had not been aware that Mrs Ebru Govtepe was a personal licence holder until he had received the agenda pack for this hearing, but that police were not informed of applications for personal licences unless the applicant had relevant convictions.

4. The statement on behalf of Enfield Food Stores Limited, represented by Mr Duncan Craig, Citadel Chambers, including:
 - a. The Police representation was opposed for two reasons.
 - b. Firstly the wording of Condition 24 was questioned, with the emphasis on the words "immediate family". The s182 guidance dealt with general principles in respect of licensing conditions. Conditions were important in setting the parameters of the operation. Conditions must be precise and enforceable, proportionate, justifiable and capable of being met. He would submit that the wording of Condition 24 was not capable of being met and was not sufficiently clear as "immediate family" was not definable in law and it could be questioned who this would apply to. To be enforceable, individuals would need to be named in the condition, if people were to be excluded from a business and their rights to go about their daily lives were to be impinged. Condition 24 was too nebulous, particularly as Mr Altun had suggested that Mrs Govtepe had no input into the business. Mrs Govtepe was being asked to abide by a condition which did not name her.

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There had been nothing to prevent the Licensing Authority naming Mrs Govtepe in the condition, but that had not been done.

b. Secondly, the guidance around transfer of premises licences was highlighted: s8.95 in particular dealt with objections. Such objections from the police should only arise in truly exceptional circumstances. Objections were expected to be rare and if the police had evidence of crime and disorder. There was no evidence that Mrs Ebru Govtepe had been involved in any criminality. That her husband had been involved was irrelevant. The guidance must have been meant for people linked in terms of criminal links, not to people related or married to those to whom the conduct related. Mrs Ebru Govtepe was granted a personal licence by this Licensing Authority. She had no personal convictions. In all the papers there was no reference to her. She had not been linked to anything going on at the premises or to any criminality whatsoever. Therefore, the police representation was flawed.

c. Witness statements had been provided in the supplementary information pack, including from Mrs Govtepe. Mr Altun had accepted that he had run the premises in a way which was not appropriate. Given the condition in place in respect of Mr Govtepe, Mrs Govtepe had run the premises since December. There had been no issues since that time in relation to counterfeit or illicit goods while she was involved in the management of the premises. This shows that Mrs Govtepe would uphold the licensing objectives.

d. In summary, Mrs Ebru Govtepe is a woman of good character and he would submit that she was not subject to Condition 24 and that the panel may dismiss the application by the police.

5. Mr Craig responded to questions from members of the sub-committee and from the Police Service representative, including the following:
 - a. In response to Councillor Savva's queries regarding licence transfer, Mr Craig clarified that Condition 24 could not prevent transfer in itself, but if the licence was transferred to anyone in the immediate family the premises licence holder would be in breach of that condition and unable to sell alcohol under the licence. He maintained that Mrs Govtepe should not be affected as it was not sufficiently clear who the Condition 24 was seeking to identify and there was no definition of what was meant by "immediate family".
 - b. The Chair queried why the applicant had not tried to have this condition revoked. It was advised that, given the Police were objecting to the transfer from Mr Altun, until that was resolved the priority was that transfer of the licence. Mr Craig would also suggest that his client should not be asked to rectify a mistake made by the council. It had also been stated in Charlotte Palmer's witness statement that such an application would also have been objected to.
 - c. In response to Councillor Vince's queries, Mr Craig confirmed that Mrs Govtepe had been involved in the business for the first time on 24/12/15, and that she had never been involved in the operation of the shop prior to that date.

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- d. Councillor Vince asked if Mrs Govtepe ever had any business discussions with her husband. Through her sister as translator, Mrs Govtepe stated "not much".
 - e. In response to questions from Mr Clarke on behalf of the police, Mrs Govtepe stated that she spoke English a little bit and that she did not read English. She confirmed that she had signed her witness statement and that someone had explained it to her.
- 6. Mr Craig advised that his instructions may have changed, and at his request was granted a short adjournment.
 - 7. When the meeting resumed, Mr Craig advised that his client had withdrawn the application.
 - 8. There was therefore no requirement for the sub-committee to make a decision on the application, and the meeting was concluded.

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MINUTES OF PREVIOUS MEETING

RECEIVED the minutes of the meeting held on Wednesday 3 February 2016.

AGREED that the minutes of the meeting held on Wednesday 3 February 2016 be confirmed and signed as a correct record.