

Statutory Licensing Sub-Committee

10th April 2018

Application to Transfer a Premises Licence



Report of Jane Robinson, Corporate Director, Adult and Child Services

Name and Address of Premises: Best Kebab One, 1a Fore Bondgate,
Bishop Auckland, Co Durham, DL14 7PF

1. Summary

The Sub-Committee is asked to consider and determine an application to transfer the premises licence for Best Kebab One, 1a Fore Bondgate, Bishop Auckland, Co Durham.

The application was received from Mr Rabaz Sirwan Raza.

A plan showing the location of the premises is attached at Appendix 1.

2. Details of the Application

The application to transfer premises licence number WV/PRE0240/05 was received on 8th March 2018. A copy of the application is attached as Appendix 2.

For Members information, the previous premises licence holder was Mr Omid Qasmi.

3. The Representation

On 19th March 2018, a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Mr Rabaz Sirwan Raza being named as the premises licence holder.

A copy of Durham Constabulary's objection is attached at Appendix 3.

The Licensing Authority are satisfied that the application was properly made. However, following the information contained within the representation from Durham Constabulary the Licensing Authority telephoned Mr Raza on 14th March 2018 who confirmed that he obtained Mr Qasmi's telephone number and arranged to meet him in Middlesbrough to obtain his signature on the consent form.

4. The Parties

The Parties to the hearing will be:

- Mr Rabaz Sirwan Raza (the applicant)
- Durham Constabulary (responsible authority)

5. Durham County Council Statement of Licensing Policy

The Sub-Committee are asked to consider the Council's Statement of Licensing Policy when determining the application.

6. Section 182 Guidance and Licensing Act 2003

The Sub-Committee's attention is drawn to parts 8.97 to 8.100 of the Section 182 Guidance and sections 42 to 45 of the Licensing Act 2003. This is attached at Appendix 4.

7. For Decision

The Sub-Committee is asked to determine the application to transfer the premises licence to Mr Rabaz Sirwan Raza.

The Sub-Committee's options are to:

- Grant the application, or
- Reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective

Background Papers:

- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2017)
- Licensing Act 2003

Contact: Helen Johnson

Tel: 03000 265101

E-mail: helen.johnson2@durham.gov.uk

APPENDIX 1 – LOCATION PLAN





APPENDIX 2 – TRANSFER A PREMISES LICENCE APPLICATION

**DURHAM COUNTY COUNCIL, Licensing Services,
PO Box 617, Durham. DH1 9HZ**

65 2213

Application to transfer premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We RABAZ SIRWAN RAZA
(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

WV/PL/0240/05 County Council

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

BEST KEBABS ONE
1A FOLE BONDGATE

Post town BISHOP AUCKLAND

Post code DL14 7PF

Telephone number at premises (if any)

Please give a brief description of the premises (see note 1) TAKEAWAY
RESTAURANT SERVING PIZZAS, KEBABS ETC.

Name of current premises licence holder

OMIP QASMI

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

a) an individual or individuals*

Please tick ☒ yes

☒ please complete section (A)

b) a person other than an individual *

i. as a limited company

☐ please complete section (B)

- ii. as a partnership ☐ please complete section (B)
- iii. as an unincorporated association or ☐ please complete section (B)
- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒
- I am making the application pursuant to a
 - statutory function or ☐
 - a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title
(for example, Rev)

Surname

RAZA

First names

LABAZ SIRWAN

Date of birth
Nationality

I am 18 years old or over

Please tick ☒ yes



**Current
residential
address if
different from
premises
address**

Post town

Post code

Daytime contact telephone number

**E-mail address
(optional)**

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr

☐

Mrs

☐

Miss

☐

Ms

☐

Other title

(for example, Rev)

Surname

First names

Date of birth

Nationality

**Current
residential
address if
different from
premises
address**

I am 18 years old or over

Please tick ☒ yes

☐

Post town

Post code

Daytime contact telephone number

**E-mail address
(optional)**

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick ☒ yes

Are you the holder of the premises licence under an interim authority notice?

☐

Do you wish the transfer to have immediate effect?

☒

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick ☒ yes

I have enclosed the consent form signed by the existing premises licence holder

☒

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

☒

Please tick ☒ yes

I have enclosed the premises licence

☒

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today

☒☒☒☐☐

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature
.....

Date 01/02/18
.....

Capacity OWNER
.....

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature
.....

Date
.....

Capacity
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the

Consent of premises licence holder to transfer

I/we OMID QASMI
[full name of premises licence holder(s)]

the premises licence holder of premises licence number WV/PRE 0240/05
[insert premises licence number]

relating to

BEST KARABO NO
[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

WV/PRE 0240/05
[insert premises licence number]

to

RAFAZ SIKWAN RAZA
[full name of transferee].

Spoke to Mr Raza who
confirmed he got Mr Qasmi's number
and met in
Middlesbrough to get
form signed.

14/3/18

signed

name

(please print)

dated

OMID QASMI

14/2/18

APPENDIX 3 – REPRESENTATION FROM DURHAM CONSTABULARY

From: Caroline Dickenson
Sent: 19 March 2018 16:13
To: Carol Graham - Licensing Assistant (N'hoods)
Subject: RE: Licensing - transfer application received

Hi Carol

Durham Constabulary are wanting to object to the transfer of licence to Rabaz Sirwan RAZA in relation to the Premises – Best Kebab One, 1A Fore Bondgate, Bishop Auckland. DL14 7PF

The police are objecting under the crime and disorder objective.

The current PLH is Omid QASMI who following checks with immigration has been out of the UK for several years, however the transfer of premises licence has been signed by someone portraying to be QASMI, which would suggest the submitted document to Durham County Council has a false statement on which is an offence under section 158 of the licensing act 2003.

When Durham police first attended the premises on the 16th December 2017 it was around numerous complaints of anti-social behaviour at the premises caused by local youths who were being allowed to use the pizza shop as a youth club. The male in charge of the premises who stated he was the owner who we now know to be applicant Rabaz Sirwan RAZA, identified himself as officers he was [redacted] he is currently under investigation for obstruct police so therefore not a fit and proper person to be a PLH

On the 16th December 2017, there was another male at the premises [redacted] who following investigation is an illegal immigrant who has no right to work in the UK, again as the owner of the pizza shop RAZA should have checked under section 24B of the immigration act 1971.

Rabaz Sirwan RAZA was informed on 16th December 2017 that he needed to transfer the licence into his name and also signed a Durham Constabulary mediation document on 20th December 2017 agreeing to remove the fixed seating within the premises and to display a notice stating no more than 2 persons under 18 years at any one time, this was in attempt to promote the crime and disorder objective, however RAZA failed to do either and only removed the stools after several enforcement visits by officers at Durham County Council.

This shows that he is not supporting nor promoting the crime and disorder objective and the police feel by allowing the premise licence to be transferred to RAZA he will continue to run the business in a way which undermines the licensing objectives.

Thankyou

Caroline Dickenson

APPENDIX 4 – SECTION 182 GUIDANCE

LICENSING ACT 2003 - Transfer of premises licence

42 Application for transfer of premises licence

- (1) Subject to this section, any person mentioned in section 16 (1) (applicant for premises licence) may apply to the relevant licensing authority for the transfer of premises licence to him.
- (2) Where the applicant is an individual he must be aged 18 or over.
- (3) Subsection (1) is subject to regulations under –
 - (a) Section 54 (form etc. of applications etc.);
 - (b) Section 55 (fees to accompany applications etc.).
- (4) An application under this section must be accompanied by the premises licence or, if that is not practicable, a statement of the reasons for the failure to provide a licence.
- (5) The [F1 relevant person must give notice of the] application to the chief officer of police for the police area (or each police area) in which the premises are situated.[F2 (5A) in subsection (5), "relevant person" means –
 - (a) the relevant licensing authority, in a case where the applicant submitted the application to the relevant licensing authority by means of a relevant electronic facility;
 - (b) the applicant, in any other case]
- (6) Where a chief officer of the police is notified under subsection (5) is satisfied that he would exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (7) The chief officer of the police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (5)

43 Circumstances in which transfer application given interim effect

- (1) Where—
 - (a) An application made in accordance with section 42 includes a request that the transfer have immediate effect, and
 - (b) the requirements of this section are met,then, by virtue of this section, the premises licence has effect during the application period as if the applicant were the holder of the licence.
- (2) For the purpose "the application period" means the period which –
 - (a) Begins when the application is received by the relevant licensing authority, and
 - (b) Ends—
 - (i) When the licence is transferred following the grant of the application, or
 - (ii) If the application is rejected, when the applicant is notified of the rejection, or
 - (iii) When the application is withdrawn

- (3) Subject to subsections (4) and (5), an application within subsection (1)(a) may be made only with the consent of the holder of the premises licence .
- (4) Where a person is the holder of the premises licence by virtue of an interim authority notice under section 47, such an application may also be made by that person.
- (5) The relevant licensing authority must exempt the applicant from the requirements to obtain the holder's consent if the application shows to the authority's satisfaction –
 - (a) That he has taken all responsible steps to obtain that consent, and
 - (b) That, if the application were one to which subsection (1) applied, he would be in a position to use every premises during the application period for the licensable or activities authorised by the premises licence.
- (6) Where the relevant licensing authority refuses to exempt an application under subsection (5) it must notify the applicant of its reason for that decision.

44 Determination of transfer application

- (1) This section applies where an application for the transfer of a licence is made in accordance with section 42
- (2) Subject to subsections (3) and (5), authority must transfer the licence in accordance with the application.
- (3) the authority must reject the application if none of the conditions in subsection (4) applies .
- (4) the conditions are—
 - (a) the section 43(1)(applications given interim effect) applies to the application,
 - (b) that the holder of the premises licence consents to the transfer,
 - (c) that the applicant is exempt under subsection (6) from the requirement to obtain the holder's consent to the transfer.
- (5) where a notice is given under section 42(6)(are not withdrawn), and subsection (3) above does not apply, the authority must –
 - (a) hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
 - (b) having regard to the notice, reject the application if it considers it [F1 appropriate] for the promotion of the crime prevention objective to do so.
- (6) the relevant licensing authority must exempt the applicant from the requirement to obtain the holder's consent if the applicant shows the authority's satisfaction –
 - (a) that he has taken all responsible steps to obtain that consent, and
 - (b) that, if the application were granted, he would be in a position to use the premises for the licensable activity or activities authorised by the premises for the licensable activity or activities authorised by the premises licence.
- (7) Where the relevant licensing authority refuses to exempt an application under subsection (6), it must notify the applicant of its reasons for that decision.