

MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE

MEETING DATE Thursday, 7 June 2018

MEMBERS PRESENT: Councillor Marion Lowe (Chair) and Councillors Gordon France and Sheila Long

OFFICERS: Alison Wilding (Customer Services Manager (Transactional)), Chris Carney (Licensing Enforcement Officer), Carl Gore (Empty Properties and Enforcement Officer), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)

17.LAS.70 Declarations of Any Interests

No declarations of any interests were received.

17.LAS.71 Procedure

The Chair outlined the procedure to be used to conduct the meeting.

17.LAS.72 Review of Premises Licence Under the Licensing Act 2003 in Respect of Tasty Bites 106 Pall Mall Chorley

The Sub-Committee considered a report from the Director of Customer and Digital to determine the outcome of an application submitted by Lancashire Constabulary to review the premises licence at Tasty Bites, 106 Pall Mall, Chorley.

Before considering the report, the Licensing Officer informed the Sub-Committee of an inaccurate date recorded in the report. Members were informed that the Licensing Officer attended the premises with Lancashire Constabulary and UK Border Agency (UKBA) Officers on Thursday, 22 March 2018 and not 19 October 2017 as indicated in the report. The Licence Holder also informed Members that he submitted the transfer of his premises licence on 27 October 2017, not 2016 as stated in the report.

Members were informed that on 17 April 2018, an application for a review of the premises licence under the Licensing Act 2003 was received from Lancashire Constabulary acting in their capacity as a Responsible Authority. The reason for this application was given under the licensing objective for: The Prevention of Crime and Disorder, in that the premises were found to be employing someone who lacked the right to work in the UK. At this time, as required, the Responsible Authorities were also informed of the Review Application. Members' attention was drawn to the Home Office Guidance issued which stated that revocation of the licence, even in the first instance, should be seriously considered.

It was reported that on Thursday, 22 March 2018, the Licensing Officer attended the Tasty Bites premises with the Police and UKBA Officers. During this visit a male was arrested for being an over stayer in the country with no visa allowing him to work. The

owner was subsequently served with a Notice of Prosecution after he admitted to the officers that he was employing the illegal over stayer (a male) and he had not carried out document checks to confirm the employee's right to work in the UK. It is a Home Office requirement that all employers must complete the required checks before employing a person. The licence holder, Mr Ismail Adam, clarified later in the meeting that he never admitted to employing the individual but advised that he was undertaking a trial period.

On 19 April 2018, a Notice of Review of the premises licence was posted at the site for a period of 28 days during which representations could be made. None of the Responsible Authorities or any other interested parties have submitted a representation during the consultation period.

An officer from Lancashire Constabulary advised that the Immigration Officer present at the time of the inspection had submitted a witness statement after the period of 28 days. As this was received after the notice period, the police officer requested that the Sub-Committee consider it as late evidence. Members and the licence holder agreed that this evidence could be submitted and copies of the witness statement were circulated. The police officer clarified that his colleague from Lancashire Constabulary attended the premises on Thursday, 22 March 2018 with a Licensing Officer from Chorley Council and an officer from the UKBA. Officers conducted checks on the individual and checked on the system which confirmed that the individual was an illegal over stayer who should not have been working. He was subsequently arrested and detained and the licence holder was sent a Notice of Prosecution. Members were informed that no previous incidents regarding the premises had been recorded.

Following Member queries, it was confirmed that the individual was seen to be working in the kitchen area of the premises when the Immigration Officer entered the premises via the rear access. Members also queried why the individual did not state that he was on a trial period during the interview. The Legal Officer questioned whether any of this information had been shared amongst other agencies such as Her Majesty's Revenue and Customs to help address issues such as deductions of tax and national minimum wage if he was being paid.

The licence holder explained that Tasty Bites was a family run business and advised that he had only ever employed family members. However, due to unexpected visits to family abroad, the licence holder was two members of staff down and therefore rang several takeaway businesses to enquire about any temporary staff available. Following these queries, the licence holder said that he appointed the person discovered by UKBA to lack the right to work in the UK on an unpaid trial basis for a week.

The Sub-Committee were informed that the individual started his trial at 5pm on Thursday, 22 March 2018; the day of the inspection. The Licence Holder felt that this was not just a coincidence. Reassurances were given by the police officer that the visit was not based on intelligence or the targeting of a single premises. The licence holder admitted that he was shocked when the individual confirmed his real name to officers as he had previously provided him with a different name.

The licence holder confirmed that he had never previously employed anyone who wasn't family and in this instance, he admitted that he should have made checks but as the individual was brought in via a referral on an unpaid trial basis he did not feel this was necessary. Following queries from the Legal Officer, the licence holder

reassured Members that had he would have undertaken the required background checks and would have recognised the individual's right to work before offering him a contract, had his trial period been successful. The importance of doing so was reiterated to the licence holder and it was advised that a list of required checks, designated by the Immigration Service was readily available online. The licence holder could not specify when asked by the legal officer what changes he had introduced to ensure he would carry out right to work checks on prospective employees in the future.

After careful consideration Members **RESOLVED – to suspend the premises licence and impose a condition on the licence to produce to the Licensing Authority within 28 days a written document setting out the checks which the licence holder would undertake to verify the right to work in the UK of prospective employees. The suspension would then be lifted on the expiration of 28 days unless the plan was not to the satisfaction of the Licensing Authority, in which case the suspension would continue for up to 3 months from the date of the sub-committee or until a satisfactory plan could be produced. The decision was taken for the following reasons:**

- 1. Members had regard to paragraph 11.27 of the national guidance issued by the Home Office which stated that employing illegal workers should be treated particularly seriously.**
- 2. Members were not satisfied that the licence holder, even after the visit, had acquainted himself with the necessary right to work checks which a responsible employer must undertake.**