



MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE

MEETING DATE Tuesday, 19 June 2018

MEMBERS PRESENT: Councillor Matthew Lynch (Chair) and Councillors Tom Gray and John Walker

OFFICERS: Chris Carney (Licensing Enforcement Officer), Carl Gore (Empty Properties and Enforcement Officer), Jodi Ingram (Solicitor), Stefanie Leach (Trainee Solicitor) and Nina Neisser (Democratic and Member Services Officer)

17.LAS.73 Declarations of Any Interests

No declarations of any interests were received.

17.LAS.74 Procedure

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

17.LAS.75 Review of Premises Licence under the Licensing Act 2003 in Respect of Sagar Premier Indian Restaurant, Clayton Brook Road, Bamber Bridge, Chorley, PR5 8HZ

The Director of Customer and Digital submitted a report for the Licensing Act 2003 Sub-Committee to determine the outcome of an application submitted by Lancashire Constabulary to review the premises licence at Sagar Premier Indian Restaurant, Clayton Brook Road, Bamber Bridge, Chorley.

The Premises Licence Holder, Mr Badrul Mohammed Alom was unable to attend the meeting; his representative was present to make his representations to the Sub-Committee.

The Licence Holder's representative requested that the Sub-Committee hearing be adjourned on the basis that the Licence Holder had been out of the country and was not aware of the hearing for Review of the Premises Licence until his return on 12 June 2018. The Licence Holder had set two meetings with his representative prior to the hearing which unfortunately he could not attend due to the ill health of his wife. Members were informed that although the Licence Holder and his representative had spoken over the telephone the day prior to the meeting, he felt this had not provided sufficient time to discuss the matter in detail and provide information. Members were reassured that the Licence Holder acknowledged the importance of the hearing and valued his business.

Members resolved to progress with the hearing but advised they could be minded to adjourn later in the meeting if it became apparent that the Licence Holder's representative was not able to provide specific information due to the circumstances.

It was reported that on 27 April 2018, 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 illegal immigrants.

The Licensing Officer attended the premises on 26 April with the Police and Immigration Enforcement/Home Office Officers. During this visit a male was arrested for being an illegal overstayer in the country with no visa allowing him to work. The Licence Holder was not on the premises at the time an employee was served with a Notice of Prosecution on 27 April 2018 as the business was illegally employing a pending asylum seeker (a male) and document checks had not been carried out to confirm the employee's right to work in the UK as required by the Home Office.

On 27 April 2018, a Notice of Review of the premises licence was also posted at the site for a period of 28 days during which representations could be made. As required, the Responsible Authorities were informed of the Review Application. It was understood that no other representations were submitted during the consultation period. Member's attention was drawn to the Guidance issued by the Secretary of State under Section 182 of the Act and the Home Office Guidance issued which stated that revocation of the licence, even in the first instance, should be seriously considered.

Following queries, Members were reassured that the council were not aware of any previous problems with the premises.

The police officer present advised Members that on arrival at the premises, a male tried to leave the building via the rear exit, however the Immigration Officers had also made an entrance via the rear of the premises and escorted the individual back inside. Three individuals were questioned and a Section 15 was issued. No paperwork, such as PAYE records or HMRC checks, had been submitted since by the Licence Holder which led the police to suggest that staff were being paid cash in hand and believed that the licence holder knowingly employed an illegal worker.

The Sub-Committee were informed that the Immigration Enforcement/Home Office had submitted additional information which outlined the interview that took place with the individual; however this was submitted following the 10 day notice period. The police requested that this late evidence be considered at the hearing. The Licence Holder's representative declined his consent.

The Licence Holder's representative provided apologies on his behalf. Following their brief telephone discussion, it was advised that the Licence Holder acknowledged and accepted responsibility for employing the individual who was not entitled to work in the UK. However, the Licence Holder had explained that he had never experienced this previously and was unsure how this had been bypassed in this instance, although the Licence Holder did acknowledge that he remembered the individual he was unable to explain how this had happened. Members were reassured that the Licence Holder had been operating this business for over 20 years and there had been no issues during this time. Reassurances were also made that this was not the way the Licence Holder ordinarily ran his business and ensured that right to work checks were carried out. It was advised that had the Licence Holder had more time, he would have provided employee personnel files to evidence this. The Licence Holder's representative

reiterated that the Licence Holder admitted a mistake had been made and asked that leniency be shown in considering the Licence Holder's challenging personal issues at this time.

Following Member queries, the Licence Holder's representative advised that he could not comment on how the licence holder paid his employees but recommended that it was not unusual for similar businesses to pay their employees cash in hand. It was confirmed that the business did have an accountant who could provide further information. It was understood that the individual had been working at the premises for 2-3 months and had no personal family links to the premises licence holder. The Licence Holder did not live in the area; however it was advised that he visited the premises, two to three times a week.

After careful consideration of the representations from the Police and Licence Holder's representative and having regard to the prevention of crime and disorder licensing objective, the national guidance issued by the Home Office under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy 2016-2018 Members **RESOLVED – to suspend the Premises Licence for three months and impose a condition on the premises licence that the Licence Holder provide to the Licensing Authority written documentation to their reasonable satisfaction setting out that the checks carried out on prospective employees by the licence holder to verify an employee's right to work in the UK are in accordance with the Home Office Guidance within 28 days from the date that decision takes effect.**

Upon the production to the Licensing Authority of the written documentation described above delegated authority be granted to the licensing officer to lift the suspension on the expiry of 28 days from the date the decision takes effect or on the date upon which the written documentation is produced if thereafter.

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 and gave serious consideration to the revocation of the licence.**
- 2. The Licence Holder's representative stated that the Licence Holder had procedures in place for checking an employee's right to work in the UK; however, he advised that although the Licence Holder had stated he remembered the employee, he was unable to explain why the checks had not taken place with the illegal employee in question. Therefore, Members wished to be satisfied that the procedures in place were robust and appropriate.**
- 3. Members noted that the Licence Holder accepted full responsibility for the matter and understood that the Licence Holder had been in business for over 20 years and this was the first time that he had come to the attention of the council.**
- 4. They also had regards to the representations made regarding the Licence Holder's extenuating circumstances.**

Chair

Date