

**MINUTES of the meeting of Licensing sub-committee held at Committee Room 1 The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Friday 10 August 2018 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)

Councillors: BA Baker and A Seldon

**Officers:** Emma Bowell, Fred Spriggs and Claire Ward

**5. ELECTION OF CHAIRMAN**

Councillor PGH Cutter was elected chairperson for the meeting.

**6. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor DW Greenow.

**7. NAMED SUBSTITUTES (IF ANY)**

Councillor PGH Cutter substituted for Councillor DW Greenow

**8. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**9. REVIEW OF A PREMISE LICENCE IN RESPECT OF 'BALTI SHABAGH, 16 BURGESS STREET, LEOMINSTER, HR6 8DE- LICENSING ACT 2003**

Members of the licensing sub-committee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the members heard from Fred Spriggs, Licensing Officer, Leah Wilson, Trading Standards Officer and Sergeant Duncan Reynolds. The committee also heard from the premises licence holder solicitor, and the premises licence holder, Mokbul Miah.

West Mercia Police outlined the reasons for their review which included:

- The licensing sub committee will have seen an Increase of number of restaurants and fast food outlets being brought to its attention in relation to immigration issues. There are a range of options open to the responsible authorities due to government agencies taking a coordinated approach to deal with modern slavery, human trafficking, etc. If people were found not to have a right to work or live in the UK, they were often housed at the same premises which were unsafe and not health and safety compliant. There were options available to the various agencies and one option was to ask the licensing sub committee to review the licence.
- As part of these visits, there were a range of different types of people who had entered the UK; such clandestine which was illegal entry to the UK with no trace on the

immigration database. This type of entry could be organised. Other types were asylum seekers who were within the asylum granting process but had no right to work in the UK.

- The Balti Shabagh was a well established premises at 16 Burgess Street, Leominster and had a licence for the sale and supply of alcohol.
- The business had a low profile and had not been brought to the attention of the police prior to this review.
- The police were involved in a Multi Agency Targeted Enforcement Strategy (MATES) group which was comprised of a number of agencies including the fire service, UK Border and Immigration Service, HMRC and various departments within Herefordshire Council. The purpose of the group was to ensure legal compliance and to target premises where there was intelligence to suggest that there was significant risk of harm to anyone who works or uses the premises.
- A MATE operation had taken place at the premises on 14 June 2018 which had been open for business.
- As part of the visit on 14 June, one male ran from the premises and was detained. The male admitted to working at the restaurant and was found to have no right to live or work in the UK. The second person had a right to be in the UK but not to work.
- A civil penalty notice had been served on the manager of the premises.
- The police are now of the view that a suspension or additional conditions may be more appropriate.

The trading standards officer outlined the conditions which trading standards would like to appear on the licence. These included a minimum level of training for all staff to ensure that all children are kept from harm; a refusal register and Challenge 25.

The committee then heard from solicitor representing Mr Miah, the premises licence holder. Mr Miah apologised for the incident. It was explained that Mr Miah had traded for 24 years and been the premises licensee for 22 years. He had not previously encountered difficulties which had brought the premises to the attention of the police and this he had dealt with as quickly as possible. The trading standards recommendations had been carried out since the visit in June. The matter before the committee primarily concerned the employment of two illegal workers. One worker had been employed for 12 months and shown Mr Miah documentation that he had a right to live and work in the UK. The second worker had been employed for 3 days and checks were being undertaken. Mr Miah had taken advice on how to check whether people had the right to work in the UK and he took his duties and responsibilities seriously. It was hoped that the committee would see that steps had been taken to rectify the situation. Mr Miah employed 8 employees whose livelihood depended on the restaurant staying open. If the licence was suspended or revoked, then Mr Miah may need to either sack people or close the business.

Following questions, it was confirmed:

- To the police's knowledge there had been no issues with the premises.
- The guidance from the Home Office on checking the rights to work or live in the UK were clear and there was also a suite of guidance available from the website.
- There was evidence that the male employed for 12 months had been paid a wage. Several customers present at the time of the visit had several customers spoke up to say he was their favourite waiter.
- Mr Miah had accepted the trading standards conditions.

The police circulated suggested conditions and the meeting was adjourned for all parties to discuss the proposed conditions. When the meeting reconvened the premises licence holder confirmed that they would be happy to accept the conditions proposed by the police. Two amendments were agreed as follows:

- First condition in connection with CCTV, the words "if fitted" to be deleted.

- The second condition in connection with SIA door staff on a risk assessment basis be deleted as it was not proportionate.

The committee have carefully considered all the representations, reports and evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire's statement of licensing policy.

## **DECISION**

The sub committee's decision following a review of premises licence is as follows;

To take no action at this stage as conditions had been agreed but to issue a formal warning that the committee does not wish to see these premises before it in future. The conditions agreed at the meeting are attached to this decision.

## **REASONS**

The committee had taken into account the statement from West Mercia Police as regards the events of 14 June 2018 and the reasons why they were now seeking suspension or additional conditions on the licence. The premises licence holder had admitted to employing persons in contravention of immigration law and apologised for it. It was recognised that this was a serious crime and that the request for a review was justified.

They took into account the 24 years that the premises licence holder had been involved with the premises and the fact this was the first time that the premises had been before the subcommittee. There was no evidence of a persistent failure to comply with licensing law and regulatory requirements.

Taking into account the statutory guidance at 11.28 the committee was aware that where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

While the committee considered that the breach of immigration law is serious, they considered it did not warrant revocation on this occasion and that a formal warning be issued. If a condition in connection with immigration checks had not been agreed, then this would have been imposed by the sub committee.

### **10. REVIEW OF A PREMISE LICENCE IN RESPECT OF 'TASTE OF INDIA, 52 WEST STREET, LEOMINSTER, HR6 8EU- LICENSING ACT 2003**

Members of the licensing sub-committee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda, the background papers and the supplement issued on 9 August 2018.

Prior to making their decision the members heard from Fred Spriggs, Licensing Officer, Leah Wilson, Trading Standards Officer and Sergeant Duncan Reynolds. The committee also heard from the premises licence holder's agent. It was noted that the Mr Ali, the premises licence holder was not present.

West Mercia Police outlined their representation in connection with the review which included:

West Mercia Police were part of a multi agency target enforcement strategy (MATE) and were part of a 3 day operation between Gangmaster Labour Abuse Authority. The purpose of the operation was to visit high risk premises in Leominster, such as restaurants, fast food outlets, car washes, etc. This was not an intelligence led operation but was fact finding.

The Taste of India, 52 West Street, Leominster was a low profile business and not come to attention of the police before this.

- A MATE operation had taken place at the premises on 14 June 2018 which had been open for business.
- Two males were detained who had admitted to working illegally. Both males had no right to work in the UK.
- A civil penalty notice had been served on the manager of the business.
- Employment of illegal immigrants is a criminal offence and is viewed as a serious matter as set out in the S182 statutory guidance and states that revocation even at first occurrence should be considered.
- The police had had contact from the agent.
- The police's approach was to education and ensure compliance and this was Mr Ali's first occasion of employing illegal workers, conditions had been agreed with the premises licence holder's agent.

The trading standards officer outlined the conditions which trading standards would like to appear on the licence. These included a minimum level of training for all staff to ensure that all children are kept from harm; a refusal register and Challenge 25. These conditions had not been agreed.

Mr Semper stated that he was sorry that his client was not present and would have like to apologise unreservedly to the committee. Mr Ali had instructed him straightaway after the MATE visits.

The majority of the concerns had been met through the minor variation to the licence. His understanding was that the police now wished to withdraw their review.

The issue of training condition had not been agreed because in Mr Semper's opinion, it was not proportionate nor appropriate and would be at an unnecessary high cost to his client. Mr Semper offer this training and was in the process of arranging a session. It was pointed out that the employment of Indian restaurant staff was transient and it was not proportionate nor appropriate to give training to a transient workforce. The condition proposed by Mr Semper had been accepted at other local authorities and should be accepted by Herefordshire.

Mr Semper also stated that his immigration condition should be agreed as the employment of a specialist immigrant expert to carry out employment checks was not proportionate nor appropriate due to the cost. Mr Ali would be using the immigration checklist which was a mandatory requirement to check whether people had the right to work or live in the UK.

Following questions, it was confirmed:

- The two males had been in the UK for a number of years, primarily in the Birmingham area and were in their 50s. Both had been debriefed by the Gangmasters Authority and had decline to go into this programme despite the figure they were not being paid the minimum wage and living in the sub-standard accommodation.
- There were 4 members of staff present at the time of the visit.
- There was no both of how long the two males had been employed
- The police's objective is not go in with enforcement but to differentiate between trafficked and other issues. They will offer training for owners and they are given very clear advice and guidance.
- That the wording in the trading standards condition in respect of training did include the words "or equivalent" but that trading standards had not seen the training being offered by Mr Semper so could not agree to the condition as they did not know if it met the "or equivalent" criteria.

- The immigration condition had not been agreed because it was a duplicate of a mandatory requirement and such conditions should be not duplicated in a premises licence.

The committee have carefully considered all the representations, reports and evidence before them today. They have had regard to their duties under S4 of the Licensing Act and considered guidance issued under s182 of the Licensing Act 2003 and Herefordshire's statement of licensing policy.

## **DECISION**

The sub committee's decision following a review of premises licence is as follows:

That the decision be adjourned to 5 September 2018 at 10.00 am.

## **REASONS**

The committee had taken into account the all the statements from the parties present. However, as Mr Ali, the premises licence holder, was not present and the committee had questions, the decision in connection with this review was being adjourned in the public interest.

### **11. REVIEW OF A PREMISE LICENCE IN RESPECT OF 'SUMMER PALACE ORIENTAL RESTAURANT, 60 WIDEMARSH STREET, HEREFORD. HR4 9HG - LICENSING ACT 2003.**

This item was adjourned until the meeting to be held on 5 September 2018 at 10.00 am.