

Minutes

Licensing Sub-Committee Thursday, 24th January, 2019

Attendance

Cllr Keeble
Cllr Mynott

Cllr Reed

Officers Present

Paul Adams	-	Principal Licensing Officer
Dave Leonard	-	Licensing Officer
Jean Sharp	-	Governance and Member Support Officer
Surinder Atkar	-	Planning Solicitor

308. Appointment of Chair

Members resolved that Cllr Reed should chair the meeting.

309. Administrative Function

Members were respectfully reminded that, in determining the matters listed below; they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter would be determined on the facts before the Sub-Committee and the rules of natural justice would apply.

310. Windermere. 47 Byron Road, Hutton. CM13 2SA - New Licence Application

The Sub-Committee first heard from the Licensing Officer Mr. Leonard who outlined his report.

The premises were a small lockable single garage situated at the rear of a shared drive between 2 bungalows in a residential location.

The Applicant Titas Bielskis submitted an application for a new premises license for the supply of alcohol (online off-sales only) between 09:00 and 18:00 Monday to Saturday.

The Sub-Committee heard from Mr. Leonard of the Council's Licensing Department who explained the background to the application and stated to the Committee that the application was under the provisions of the Licensing Act 2003.

The Sub-Committee then heard from Mr. Peter Jones for the Police. Mr. Jones objected due to the lack of information provided by the applicant relating to the means of storage or proposed security measures to prevent the theft of alcohol and the sale of alcohol to those under 18.

The Sub-Committee then heard from the applicant who addressed the two Police objections by accepting 2 conditions that firstly the business is the online sale through Amazon only with a maximum of 6 cases to be stored in the garage at any time and secondly the online business would only operate 24 hours a day but the license holder would only accept and post the orders between Monday and Saturday between 9 am and 6 pm. He also explained that he would be selling a niche type of lager from Eastern Europe.

The Sub-Committee sought clarity on how the sale of alcohol through Amazon would address the objectives and the Applicant explained that Amazon ran tight checks on the age of purchasers and that the quantity of alcohol stored in the garage would be small.

The Sub-Committee then retired to consider the matter. The Committee discussed the matter and came to the conclusions that the prevention of crime objective and the protection of children objective had been addressed by the two conditions. The Committee sought clarification on what a “ case of alcohol “ was comprised of. The Legal Representative went back to the Applicant and sought clarity and was informed that the definition of a case would be either 6 bottles or 12 cans and no more. The Legal Representative clarified this to the Committee who were satisfied with the definition and decided to grant the application subject to the conditions as clarified.

The Legal Representative then announced the Sub-Committee’s decision before the open hearing to all parties that the decision was to grant the application subject to the clarified conditions.

The Sub-Committee would remind all parties that they have a right to appeal against this decision to the Magistrates’ Court.

311. The Raj - 21 Kings Road, Brentwood. CM14 4DJ - Review of Premises Licence

The Sub-Committee first heard from the Licensing Officer who outlined her report. The premises were currently a restaurant specialising in Indian cuisine situated in Kings Road, Brentwood, and it was currently licensed for the Sale by Retail of Alcohol & Late Night Refreshment.

On 7th December 2018 the Applicant Badsha Miah submitted an online application with the intention to transfer the existing premises license to Jetu Miah. There was no application to vary the existing Designated Premises Supervisor who was Badsha Miah. On the 17th January 2019 the Brentwood Licensing Sub-Committee refused this application and it was following this that the application to review was made by the Police.

The Sub-Committee heard from Mr. Leonard of the Council's Licensing Department who explained the background to the application and stated to the Committee that the application had been brought on the basis that Essex Police believed that the premises license holder had failed to promote the prevention of crime and disorder objective under the Licensing Act 2003.

The Sub-Committee then heard from Mr. Peter Jones for the Police. Mr. Jones stated that the relevant premises had been raided by the Immigration Services in November 2018 and 5 illegal workers were found to be working at the Restaurant.

Serious immigration offences relating to unauthorised employment of illegal immigrants had been committed by the Restaurant owners. The Sub-Committee was referred to the report and other evidence before it.

Mr. Jones referred to the well below minimum wage payments made to the illegal workers if they were paid at all and the fact that there was evidence that some were not even paid at all. This was tantamount to modern day slavery.

The Sub-Committee then heard from Graham Hopkins who represented Badsha Miah who stated that his client as designated premises supervisor accepted the facts presented by Mr. Leonard and the Police and accepted his wrong-doing. Mr. Hopkins was not asking for conditions to be imposed and for the license to continue but in the light of his client's remorse the better course would be to suspend the license for 3 months. Suspension would hit the business hard and would be a deterrent deterring future offences.

The Sub-Committee then put their questions to Mr. Hopkins and Mr. Jones following which both parties were permitted to speak in closing.

Mr. Jones stated that it was not enough just to say that Mr. Miah had admitted his wrong-doing because often that was the case. He stated that 2 of the workers were paid very little and 2 nothing at all. This gave businesses such as this an economic advantage over other businesses and was a driver for people to come to the country illegally. Such workers took advantage of GP services and A& E services but paid no taxes. Mr. Jones referred in detail to the Council's Licensing Policy and paragraphs 11.23 and 11.28 of the Secretary of States's Guidance. Mr. Jones also stated that revocation would not necessarily lead to the demise of the business as it could operate as a "bring your own bottle" business such as many operating in Brick Lane.

Mr. Hopkins in summary stated that it was only a first review and that suspension would be the appropriate course. Mr. Miah was also very remorseful.

The Sub-Committee then retired to consider the matter. The Sub-Committee felt that there was sufficient evidence to support the contention that the prevention of crime and disorder objective was engaged in circumstances that serious criminal offences in employing illegal immigrants had been committed.

In the light of the illegal employment offences previously being committed no evidence had been adduced to show that future offences would not be committed. The offences were very serious.

In the circumstances the Sub-Committee determined that the premises license should be revoked. The Legal Representative then announced the Sub-Committee's decision before the open hearing to all parties that the decision was to revoke the premises license.

The Sub-Committee would remind all parties that they have a right to appeal against this decision to the Magistrates' Court.