

Decisions of the Licensing Sub-Committee

6 October 2014

Members Present:-

Councillor Maureen Braun (Chairman)

Councillor John Marshall

Councillor Brian Salinger

Officers to the Panel

Bob Huffam – Legal Services

Faith Mwende – Governance Service

Edward Gilbert - Governance Service

Licensing Officer

Daniel Pattenden

Responsible Authority

Sergeant Mark Altman – Metropolitan Police

James Taylor – Chief Immigration Officer

Premises Licence Holder

Mr Mustafa Cakir - Licence Holder

Mr Kalender Cakir - Licence Holder

Mr Leo Charalambides – Legal Representative

Ms Fatma Cakir

1. APPOINTMENT OF CHAIRMAN

Councillor Maureen Braun was appointed Chairman.

2. ABSENCE OF MEMBERS (IF ANY)

There were none.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

There were none.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

The Chairman introduced the sub-Committee Members and explained the procedure that would be followed at the meeting.

5. REVIEW OF PREMISES LICENCE – BUY TO SAVE, 24 GOLDERS GREEN ROAD, GOLDERS GREEN, NW11 8LN

The Sub-Committee considered an application to review a premises licence under section 51 of the Licensing Act 2003 for Buy to Save, 24 Golders Green Road, Golders Green, NW11 8LN.

The Sub-Committee heard oral representations from the Licensing Officer, Police, Immigration Services and the premises licence holder(s). The legal representative for the premises licence holder made an application for an extension of time in which to make his representation. This was granted by the Panel in view of the seriousness of the matter.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

RESOLVED – Following discussion with all parties, the Licensing Sub-committee agreed to conduct the hearing in public.

7. IMMIGRATION NOTES OF VISIT & OFFENCES

The Sub-Committee heard oral representations from the Licensing Officer, Police, Immigration Services and the premises licence holder(s).

8. MOTION TO EXCLUDE THE PRESS AND PUBLIC

RESOLVED – That, under Regulation 14(2) of the Licensing Act 2003 (Hearings Regulations 2005), the parties be excluded from the meeting.

9. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session.

10. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE

RESOLVED – That the press and public be re-admitted.

The Sub-Committee, having considered the application and all verbal and written representations received, unanimously **RESOLVED** –

This is a review of the Premises license for Buy to Save, 24 Golders Green Road, Golders Green, NW11 8LN.

The review has been called by the Police following an attendance at the premises by the Immigration Office in April 2014, and a joint Immigration Service and Police attendance on 18 July 2014. On both occasions people were working at the premises who did not have the right under Immigration regulations to do so.

Various other matters were raised by Trading Standards concerning the provision, storage and disposal of food. While the panel has noted these, it is relevant that they were not considered as sufficient to warrant an application for a review at the time. We have not given these representations any weight.

The panel has however noted that the Guidance to the licensing Act has set out a schedule of issues that should be taken particularly seriously if they occur. They include knowingly employing staff who have no right to work in the UK. It is of great concern therefore that illegal staff were found to be at the premises on two separate occasions at Buy to Save. The owner Mr M Cakir admitted having hired the workers.

Save for the issue of whether two people found at the premises were working there or not, the facts are not in dispute. The question is how to deal with the licence in order to promote the licensing objectives. The licensee states that this review has been a warning and that he will make the required checks in future. This entails the provision of three documents including a passport, and the making of any further enquiries that may be appropriate following sight of the documents. The Police case is that the matter is so serious that only revocation is appropriate. They state that the absence of proper documents, especially on the second attendance, shows knowledge on the part of the employer that at least further enquiries ought to have been made concerning an employee before being offered work.

The Panel recognise the difficulties faced by employers in making the necessary checks on any employee's right to work especially when so many fake documents are available. The Licensee brought with him many fake documents as evidence of their availability and apparent genuineness. There is however a duty on them to do so and we must consider the review on that basis.

We have considered whether the imposition of conditions as proposed by the Licensee would help to promote the licensing objectives and resolve the problem at the root of this review. The proposal is for a record to be kept on site for inspection showing the rights of the employees to work in the UK, and the attendance of the owner and manager at a course concerning due diligence checks. The licensee points to the due diligence checks relating to sales of alcohol to people who appear to be drunk or underage in support of this. He also refers to the business being a family concern with some 45 employees.

The problem for the Panel in accepting this is that the attendance at the premises in April ought in itself to have brought about the actions now proposed by the licensee. The attendance in July showed that the problems had not been acted on, indeed there seems to have been more illegal workers there. The licensee's representative stated that the Guidance was intended to highlight areas of concern which was designed to signify how serious a matter was without making revocation of a licence necessary. The Panel accepts this but notes that the Guidance goes on to say that where a Panel determines that the licensing objectives are being undermined through the premises being used to further crime, it is expected that revocation of a licence, even in the first instance, should be seriously considered. We have therefore seriously considered the arguments on both sides and found that the crime prevention objective is being undermined.

For this reason we do not believe that the conditions proposed are acceptable, and that the only appropriate and proportionate decision is for the licence to be revoked.

11. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT

There were none.

The meeting finished at 12.00 pm

