

Decisions of the Licensing Sub-Committee

2 March 2015

Members present:	Cllr John Hart Cllr Alison Cornelius Cllr Jim Tierney	Chairman
Officers present:	Harinder Dhaliwal Sarah Koniarski Daniel Pattenden	Legal Officer Governance Officer Licensing Officer
Applicant's representatives present:	Sergeant Mark Altman George Gibbons Francesca Penny Vicki Wilcock	Metropolitan Police Service
Premises licence holder's representatives present:	Pararajasingam Satheeswaren Trevor Hughes Jenny Hughes Pararajasingam Kasipam	Licensee and DPS J and H Licensing Consultants Relative

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor John Hart be appointed as chairman of the sub-committee.

2. ABSENCE OF MEMBERS

None

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

None

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

The procedure was noted.

5. REVIEW OF PREMISES LICENCE - COSTCUTTER 2-4 VALLEY PARADE, THE HYDE, EDGWARE ROAD NW9 6RR

The sub-committee considered the licensing officer's report, together with submissions from the applicant and the premises licence holder.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

RESOLVED that the parties be excluded from the meeting, together with the press and public, in accordance with regulation 14(2) of the Licensing Act 2003 (Hearings Regulations) 2005.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The sub-committee retired to deliberate in private session, accompanied by the council's legal and governance officers, to consider the facts of the application and the measures necessary (if any) to ensure the promotion of the licensing objectives.

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

The parties to the application were readmitted to the meeting and the chairman conveyed the sub-committee's decision as follows:

This was a review of the premises licence for Costcutter 2-4 Varley Parade The Hyde, Edgware Road NW9 6RR. The review had been called by the Metropolitan Police Service following a joint inspection of the premises with the Immigration Service on 14 November 2014, which discovered that one of the people working there had been working in breach of section 15 of the Immigration, Asylum and Nationality Act 2006 in that his working visa had expired on 30 October 2012.

The Immigration Service served a referral notice on the premises. Following an investigation by the Immigration Service, a civil penalty notice was imposed.

Sergeant Altman, the applicant for the review, made representations on behalf of the Metropolitan Police Service and confirmed that the Immigration Service had dealt with this as a civil matter and that the matter had not been deemed to be appropriate for prosecution. Sergeant Altman stated that this was a first time offence and in his view; it had been on the lower scale of seriousness of offence. In light of this, Sergeant Altman confirmed that an agreement had been reached between the Metropolitan Police Service and the premises licence holder with regards to the imposition of additional conditions on the premises licence.

Mr Trevor Hughes from J and H Licensing Consultants was in attendance on behalf of Mr Pararajasingam Satheeswaren, the premises licence holder. Mr Hughes stated that when the review application was brought by the Metropolitan Police Service, the matter was still under investigation by the Immigration Service, hence the review papers incorrectly stated that the employee concerned did not have the right to work. Mr Hughes stated that the employee had a right to work from April 2011 but that this entitlement had expired on 30 October 2012. Mr Hughes clarified that the employee concerned had been working in breach as opposed to having no right to work. This breach had continued for over a two year period.

Upon employing the employee, the premises licence holder had taken a photocopy of the employee's passport and taken the employee's national insurance number. Mr Hughes stated that this was not a case where the licensee had knowingly employed an illegal immigrant; rather it was one where he had employed someone who had the right to work for a limited time. The premises licence holder had made the mistake of not checking whether the employee's entitlement to work in the UK had expired. Mr Hughes stated

that section 11.27 of the guidelines to the Licensing Act was irrelevant in the circumstances. The guidelines included a list of matters that should be taken very seriously by a licensing authority when determining a review application. The employment of people not entitled to work in this country was on that list. This was not, however, relevant in the circumstances as that provision related to criminal activity. Mr Hughes confirmed that the Immigration Service had dealt with this as a civil matter and hence the guidelines were not applicable.

Following consideration of the facts, the Licensing Sub-Committee decided that to promote the licensing objectives, namely public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm, the following three conditions, as agreed by both the applicant and premises licence holder, would be added to the existing premises licence:

1. To be able to produce, to a Police Officer, or Home Office Immigration Officer, proof of full compliance with the Home Office full guide for employers on preventing illegal working in the UK October 2013 issue, or any subsequent issue. This proof to be produced within 24 hours. To keep a record of the expiry date of any employees who have working visas and to ensure such employees are fully compliant at all times with the Home Office full guide for employers.
2. To maintain on the premises a contemporaneous written record of the hours worked by all persons. Such record shall as a minimum cover the previous 52 working weeks and must be available to be produced on demand to a Police Officer or Home Office Immigration Officer.
3. Digital CCTV is to be installed and maintained according to the recommendations of the Police Crime Design Advisor or Police Licensing Officer and images kept for a period of 31 days. CCTV footage to be supplied within 24 hours on request of the Metropolitan Police Service, authorised council official or Home Office Immigration Officer in a usable format. The CCTV coverage will include the forecourt.

RESOLVED that the conditions of the premises licence be modified.

Right of Appeal

The parties to the application were advised that they may at any time before the expiration of a period of 21 days from notification appeal to Willesden Magistrates' Court by way of complaint for an order.

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

None

The meeting finished at 2.24 pm