

Licensing Sub Committee-Alcohol and Gambling

Thursday, 20th September, 2018
6.00 - 6.50 pm

Attendees	
Councillors:	Roger Whyborn (Chair) Tim Harman and Dennis Parsons
Also in attendance:	Phil Cooper and Vikki Fennell

Minutes

1. ELECTION OF CHAIR AND VICE CHAIR

The sub-committee nominated Councillor Whyborn as Chair of the meeting.

2. APOLOGIES

There were no apologies.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. DETERMINATION OF AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE

The Chair explained that the meeting was to be held under exempt conditions in case information relating to any individual was disclosed and because the case was subject to a criminal investigation which could be compromised. In the interest of transparency, however, they would determine how much of the minutes could be made public following the meeting.

The Licensing Officer proceeded to introduce the report which had been circulated with the agenda, he explained that an application had been made on the 30th July 2018 by Cheltenham Borough Council, as the licensing authority, to review the premises licence of St James Store, 22 St. James Street, Cheltenham.

He advised that the grounds for review were as a result of a visit by the Home Office's Immigration Compliance & Enforcement Team to St James Store on Tuesday 26 June 2018. The visit was following intelligence received that an illegal worker was employed by the premises. He confirmed that during the visit, one male was arrested on the premises for Immigration Offences and the premises was issued with a Civil Penalty Notice.

He reminded Members that they must take into account all the available evidence that gives an indication of how the premises are being operated, particularly in relation to crime and disorder and must take the necessary steps as it considers appropriate for the promotion of the licensing objectives. Taking this into consideration they had the option to:

- Modify the conditions of the premises licence;

- Exclude a licensable activity from the scope of the licence;
- Remove the designated premises supervisor;
- Suspend the licence for a period not exceeding three months; or
- Revoke the licence.

Louis Krog acting on behalf of the applicant (Cheltenham Borough Council) was then invited to present his case. He advised that as a licensing authority they had taken the view that any licensed premises found to be operating in such a way that it is not complying with its statutory obligations, in this case immigration law, they would apply for a review of the licence. This would give the committee an opportunity to make a determination on whether the licence and its conditions remain sufficiently robust for the purpose of promoting the licensing objectives.

He reported that, unless the matters are so serious that there is no option but to revoke or suspend a licence, which he didn't believe was the case in this instance, the aim was to get all licensed venues to a place where they operate in a compliant and lawful way. He confirmed that he had had a meeting with the licence holder's agent, at their request, to discuss the steps they had taken since the incident to give assurance that moving forward they will be operating in a way that will be compliant with legal requirements and promote the licensing objectives. He confirmed that he was personally satisfied that the steps taken since the incident were sufficient to address any concerns that he had which led to the review application.

The Licence holder's advocate was then invited to present the case. He advised that:

- Mr Navaratnam accepted he had made a mistake and was certain it would not happen again;
- In his account of the incident in question, he reported that Mr Navaratnam had been approached by an old acquaintance who knew somebody that needed somewhere to stay. Mr Navaratnam had obliged and let the gentleman in question sleep on a bed in the store room, which was there for employees who worked long shifts. He confirmed that since the incident the bed had been removed;
- He advised that the gentleman had been asleep when the Immigration Compliance & Enforcement Team had entered the property and had never worked at the store. He could not speak English and had never been trained to use the till;
- There had, however, been one incident where the gentleman had been asked by another employee to cover for him as he was unable to make a shift. This was due to the fact that there was a condition on the premises licence which stated that 2 staff must be on duty at any one time between the hours of midnight and 6.00am and if not then they would usually have to close the store;
- Mr Navaratnam's wife was extremely annoyed at the situation and unhappy for the gentleman to be sleeping in the store room;
- The rota which had been found in the store was one which an employee had drawn up for herself and not the official rota;
- Mr Navaratnam was also the Designated Premises Supervisor for Red Apple Service Station;

- He confirmed that Mr Baker, the licensing agent, had produced a store employment file which would be kept in store and made available to the responsible authorities on request. This included a rota form, copies of employees ID's, right to work documentation, national insurance information and copies of payslips;
- He felt that Mr Navaratnam understood the severity of the situation and had been punished enough. He had not heard from the Home Office in the past 3 months but could face fines in the region of £25,000, which was a constant worry for him.

The agent had drawn up two conditions which they suggested be applied to the licence, these were as follows:

1. The premises licence holder shall ensure that right to work checks are undertaken on all staff employed at the premises and that clear photocopies are retained of all original right to work documentation and held in store employment file along with a completed copy of the home office checklist. The file is to be kept at the premises for inspection by the responsible authorities upon reasonable request. No person will be permitted to work at the licenced premises under any circumstances until the right to work checks have been completed satisfactorily and copies of the documents have been taken.
2. Copies of all employee time sheets for the hours actually worked are to be kept in the store employment file for inspection by the responsible authorities upon reasonable request. Copies of time sheets should be kept for at least twelve months.

The following responses were offered to Members questions:

- The Middlesex address listed for Mr Navaratnam on the premises licence was his correspondence address. He explained that up until last year he had been living between Middlesex and the Forest of Dean where his wife resided, however, he now lived permanently in the Forest of Dean but he did still own the house in Middlesex;
- He had moved to the area in 2006 and Red Apple Service Station had been his first business;
- They had received a caution from environmental health in 2014 with regards to food safety and hygiene as detailed in the report and had also received a fine for putting cardboard in the domestic recycling. Other than this they had had no issues;
- They had considered the situation whereby Mr Navaratnam would be removed as the DPS and replaced by his wife who he thought would be a suitable candidate for the position. She had taken the relevant APLH course and whilst the results were not yet back she was confident she had passed. Her next steps were to have a criminal record check and make an application to the Forest of Dean Council. It was requested that should the sub-committee wish to instate Mrs Navaratnam as the DPS they allow her 3 months to get the necessary qualifications and checks in place.

The case was then open to debate by Members, they acknowledged that the incident was extremely serious and not one to be taken lightly. They had to act on the balance of probabilities that such incidents would not

happen again and felt confident that Mrs Navaratnam would be an appropriate DPS. They agreed that 3 months would be acceptable to allow Mrs Navaratnam to gain the required qualifications and if she was not able to obtain the documentation in this time they would review the timescale. It was also suggested that that the premises be carefully monitored with spot checks. The Licensing Officer advised that they already do a rolling programme of inspections and during such inspections, compliance officers check every condition on the licence. The Legal Officer advised that changing the DPS would not impact on Mr Navaratnam's licence for Red Apple Services.

The sub-committee proceeded to vote on whether to apply the two conditions as set out by the advocate and to remove Mr Navaratnam as the DPS and replace him with his wife.

Upon a vote, it was unanimously for.

RESOLVED THAT

The two conditions as outlined be applied to the licence and Mr Navaratnam be removed as the DPS and replaced by Mrs Navaratnam.

Roger Whyborn
Chairman