

Licensing Sub Committee-Alcohol and Gambling

Monday, 4th February, 2019

2.00 – 2.35 pm

Attendees	
Councillors:	Diggory Seacome (Chair), Roger Whyborn, Dennis Parsons
Also in attendance:	Louis Krog (Licensing Officer), Vikki Fennell (Legal Officer) Mr Ali Ansar (applicant)

Minutes

- 1. ELECTION OF CHAIR**
The sub-committee elected Councillor Seacome as Chair.
- 2. APOLOGIES**
There were none.
- 3. DECLARATIONS OF INTEREST**
There were none.
- 4. MINUTES OF THE LAST MEETING**
These were accepted and signed as a true record, without amendment.
- 5. DETERMINATION OF APPLICATION FOR THE TRANSFER OF A PREMISES LICENCE: INDIA LOUNGE, SUFFOLK PARADE**
Officer Introduction

The Licensing Officer stated that the purpose of the meeting was to determine an application to transfer the premises licence for India Lounge to Mr Ali Ansar. An objection has been received from the Home Office, as responsible authority in relation to the application, for the following reason: in August 2016, the premises licence for the Indian Voojan, of which Mr Ansar is the licence holder, was subject to a review following an application submitted by Gloucestershire Constabulary, as a response to Home Office enforcement staff finding four illegal workers on the premises. As a result, the premises licence for Indian Voojan was suspended for four weeks, and a fine was imposed, £13,978.80 of which remains outstanding.

As set out at Para. 5.7 of the report, the prevention of crime includes the prevention of immigration crime, one element of which is the prevention of illegal working in licensed premises. The sub-committee is under a statutory duty to determine this application with a view to promoting the licensing objectives; the guidance identifies immigration-related offences as relevant to the 'prevention of crime and disorder' objective.

The sub-committee must determine the application on its individual merits, with regard to statutory guidance, the council's licensing policy and representations received. They can consider:

- Granting the application as requested;
- Modifying the conditions attached to the licence; or
- Refusing the application.

At this stage, neither the members nor the applicant had any questions for the licensing officer, so Councillor Seacome invited Mr Ansar to state his case.

The applicant

Mr Ansar said he learnt a big lesson from his experience at Indian Voojan in 2016. Since then, he has put a lot of measures in place to ensure he doesn't make the same mistake again, following advice on the Home Office website to check closely the papers of potential staff and make sure that they have the legal right to work in the UK. He has recently taken on two new members of staff, and can provide proof of the measures he has taken.

Member questions to the applicant

Mr Ansar gave the following responses to Members' initial questions:

- He has just become a co-director of India Lounge, which is why he has applied to take on the premises licence;
- He is paying the fine for employing illegal workers in monthly installments of £700 month; he has never missed a payment; he has £13, 978.80 still to pay;
- To explain the company structure arrangements around the group of restaurants, the Indian Voojan is his, opened in 2008; Mr Mannan (current licence holder at India Lounge) helped him acquire a second business, Soho Bar in Montpellier. Now he is looking to take on India Lounge. He has some interest in the buildings of other restaurants, such as Prima Vera, but not in the businesses themselves;
- His three businesses – Indian Voojan, Soho Bar, and India Lounge – are all independent entities, with no ties and with separate accounts;
- He is the sole shareholder for India Voojan; Mr Mannan has 15% shareholding of Soho Bar;
- He is DPS at all three premises, and also currently at the Montpellier Bar and Grill, though this business has recently been taken over by Mr Mannan. He lives in Montpellier, with flats above two of the restaurants and just a few minutes' away from the others, but no longer has any business interest in the Montpellier Bar and Grill so can apply to remove his name as DPS for that restaurant.

Councillor Whyborn expressed collective concern about how many premises can share one DPS, and whether this application can be conditioned on the number and spread of Mr Ansar's DPS situation. The licensing officer confirmed that the DPS is generally the manager of a venue, is expected to be regularly on site and involved in the daily running of the venue, generally in control and ensuring that the premises are managed in a responsible, lawful way. The authority wouldn't expect an individual to be DPS of more than 2-3 premises at once. At present, Mr Ansar has an interest in up to four businesses, but only holds three licences; Mr Mannan is currently DPS at India Lounge. The consideration today is just whether Mr Ansar is able to take over the licence of India Lounge in line with the crime and disorder objective.

Councillor Whyborn noted the DPS situation – that Mr Ansar will not be DPS at India Lounge – but wanted this noted so that it may be referred to at a later date, should Mr Ansar apply to become the DPS at that venue.

Councillor Whyborn then turned to the issue of the outstanding fine of £13,978.80, which Mr Ansar has stated that he is paying off at £700 a month. He suggested that if colleagues are minded to grant the transfer, they should see evidence of payments to date, and of payments going forward to clear the arrears in a timely way. Non-payment of a civil penalty is a serious consideration, and such evidence would influence his decision whether to grant or not.

Councillor Seacome felt that this was irrelevant to this particular application, but asked Mr Ansar for further details. Mr Ansar confirmed that the original fine was £20-25,000, and the monthly payments started at a later date. He can provide evidence of payments to date.

Councillor Parsons said it is clear there are arrears to pay, and desirable that monthly payments continue, but this does not need to be taken into account. The licence was suspended for four weeks and a fine imposed; it would be indefensible to refuse this application two years later as further punishment. Councillor Whyborn said the representation from the Home Office states that £13,978.80 remains unpaid. If this large fine is not paid, the applicant would not be considered a law-abiding citizen; if it is being paid, as Mr Ansar has stated, is happy to grant the licence, but wants to see the evidence.

The legal officer said that the Home Office gave the figures to show the outstanding debt, but the main issue now is making sure that Mr Ansar has policies and procedures in place when taking on new staff, to ensure that they are legally entitled to work in the UK. The outstanding debt is not relevant in what we are considering today.

Councillor Seacome considered all issues had been covered and invited Mr Ansar to respond.

Applicant's summing-up

Mr Ansar repeated that he had learnt a lot from the experience of 2016 regarding employment of illegal workers, and while employing staff from different ethnic backgrounds who move from other towns and cities to work in Cheltenham can be difficult, he is ensuring that proper procedures are now in place and that previous mistakes will not happen again. He now uses the Home Office checklist, and can email or call the helpline if in any doubt about a person's entitlement to work in the UK.

Members' summing-up

Councillor Whyborn said that although he is minded to support, he will abstain, in the absence of evidence to support Mr Ansar's assurance that he is clearing his debt to the Home Office. The legal officer said that this is acceptable; in the event of one Member voting to grant and the other voting not to, the Chairman will have the casting vote.

Vote on transfer of premises licence of India Lounge to Mr Ali Ansar

2 in support
0 in objection
1 abstention

Transfer of premises licence approved

In view of the earlier advice from the licensing officer that one individual should not hold the position of DPS at more than 2-3 premises, the legal officer advised Mr Ansar to remove himself as DPS from the Montpellier Bar. Mr Ansar stated that he would do this as soon as possible.

6. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

There were none.