

## Licensing Sub-Committee (Indian Voojan)

Friday, 19th August, 2016  
11.45 am - 1.12 pm

Attendees	
<b>Councillors:</b>	Diggory Seacome (Chairman), Mike Collins and Pat Thornton
<b>Officers:</b>	Phil Cooper and Fiona Samuda
<b>Also in attendance:</b>	PC Steve Kiernan, Licensing Officer, Gloucestershire Constabulary; PC Jaine Simner, Licensing Manager, Gloucestershire Constabulary; DC Sarah Stewart, Avon and Somerset Constabulary seconded to Home Office Immigration; Mr Tim Burnham, Chief Immigration Officer, Home Office; Mr Michael Parrott, Director Gregg Latchams Solicitors; Mr Ali Ansar, Licence Holder and Designated Premises Supervisor, Indian Voojan

### Minutes

**1. ELECTION OF CHAIRMAN**

Councillor Diggory Seacome was elected as Chairman.

**2. APOLOGIES**

None

**3. DECLARATIONS OF INTEREST**

None

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

Licensing Officer, Phil Cooper, introduced the report regarding an application received on 29 June 2016 from Gloucestershire Constabulary to review the premises licence of Indian Voojan, 5 Rotunda Terrace, Montpellier Street. This establishment has a premises licence authorising the sale of alcohol, the performance of live music and the provision of late night refreshment.

The Licensing Act 2003 allows any responsible authority or other person to apply to review a premises licence at any time, if their grounds relate to the premises and to one or more of the licensing objectives, which are

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance and
- The protection of children from harm

Gloucestershire Constabulary had applied to review the premises licence following a visit by home office immigration officers in February 2016. During the visit the officers carried out immigration checks on persons present and concluded that they were employed illegally at the premises.

The matter was subsequently referred for consideration of a civil penalty, after which the constabulary made their application to review the premises licence on the grounds of the prevention of crime and disorder and public safety.

Further reasons for the constabulary's application to review the licence were outlined in their application, which was attached as Appendix A to the report.

The Officer continued that the civil penalty had been disputed and informed members of the sub-committee, that they had to consider whether, in light of the facts presented, the operation of the premises was adversely affecting the licensing objectives and if so, what action to take. The options available to the sub-committee, if they determined that action must be taken, were:

- To modify the conditions on the premises licence
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises supervisor
- Suspend the licence for a period of up to 3 months
- Or revoke the licence

The decision of the sub-committee carried with it the right of appeal to the magistrates' court.

There being no questions to the Officer, the Chair invited the applicant to present the case. PC Steve Kiernan, Licensing Officer for Gloucestershire Constabulary, commenced by stating that the Indian Voojan was from a policing perspective a well-run established restaurant that had not been in any way problematic, with no reports pertaining to the premises at all over the last 12 month period. The matter had been brought to sub-committee because they felt that none of the options available for consideration were appropriate to address the gravity of the claim. He explained that as a result of Immigration attending the restaurant in February 2016 and finding four males working there illegally, a civil penalty fine of £30,000 had been served on the premises on 6 July 2016 which had been objected to but not yet considered. PC Kiernan acknowledged that inevitably the facts presented in the review submission would be contested due to the huge implications on the business, but stated that the illegal employment of workers in licenced premises in Cheltenham was not only detrimental to the licensing objectives but also to the reputation of Cheltenham and thus felt it right and proper to bring before this sub-committee.

The Chair invited Mr Michael Parrott, Solicitor representing Mr Ali Ansar the joint license holder and Designated Premises Supervisor, to address the sub-committee. Mr Parrott informed members that Mr Ansar had run this well established, good quality premium restaurant for 9 years building up a good reputation with good reviews. Mr Ansar was also the proprietor and he also ran the adjacent Soho Bar, where he spent most of his time. The day to day running of Indian Voojan was done by the manager, Mr Amit Chowdhury. Mr Ansar did not know of the visit by the Home Office in February 2016 until after it had taken place. Furthermore, Mr Ansar did not know about these 3 men being employed at the restaurant, as his manager would have interviewed any new employees, nor was Mr Ansar aware of the need for more staff, as staff from the Soho Bar could be used if the restaurant is under staffed. As far as Mr Ansar had been told by his manager, three of the men were visitors and one

was seeking employment but not given it. Mr Parrott also referred to the record of staff payslips showing National Insurance numbers.

Mr Parrott continued that there had been some mitigation on the 3 civil penalties relating to the premises, with a reduction from £20,000 each to £10,000 each and that advice was being taken on the further right of appeal. This penalty of £30,000 though would have a big impact on the business and was a punishment in itself.

The Chair questioned that four people had been reported as being in the restaurant illegally, and that the civil penalty notice only applied to three, confirming that nothing had been found against one of the men.

Mr Ansar addressed the sub-committee, stating he had run the restaurant since 2008, managing it well regarding its licence and employment. When he got the Soho Bar he spent more time there building it up and left the day to day running of the restaurant to Mr Chowdhury who had been with him since 2008 so knew all about the running of it. Mr Ansar said he was confused as to how this had all happened, but explained that on Fridays many of his fellow countrymen gathered in the local mosque in Cheltenham and that as many didn't live in Cheltenham, they would go into the restaurant to see their friends and are offered food.

A member put several questions to Mr Ansar, to which he replied that visitors can eat in the restaurant or downstairs as there is a large kitchen with sitting area and that he didn't know anything about the man who claimed to have been there 2 months. He said he had been in Birmingham the day of the raid and on returning to Cheltenham the men had all left the premises. Mr Ansar stated that he did not know why his manager had made no comment in his interview with the Home Office. He was angry about this as it put him in a difficult position. Mr Chowdhury had told him he had been too nervous to answer and he was having some personal problems, so Mr Ansar suggested that could have been the reason.

Mr Ansar informed members that Mr Chowdhury was still at the premises as manager, but that since this incident he had tried to get a new manager as this had put him in trouble and in a bad financial situation. However he had so far been unsuccessful in finding a suitable replacement, as he claimed it was very difficult to recruit and find the right person to run the restaurant to the standard he wanted in order to maintain his good reputation of the last 8 years. Mr Ansar confirmed that he did the PAYE, with Mr Chowdhury running the day to day management.

Mr Ansar confirmed he was the Designated Premises Supervisor for Voojan and in response to what this role entailed, he replied to prevent crime and disorder and noise pollution, to maintain the high quality of his premises and to adhere to the rules on the sale of alcohol. He thought he had managed well as a DPS as he hadn't had any issues over the last 9 years.

One member asked Mr Ansar about the rooms above the premises and he said there were 2 rooms above Voojan, with a maximum of 4/5 staff staying there and 4 staying above the Soho Bar.

The Council's Solicitor asked Mr Ansar if Mr Chowdhury had offered an explanation as to events on the day of the raid in February 2016. He replied that Mr Chowdhury had thought it was a terrorist raid at first and was very scared because the officers had been wearing full riot gear. Mr Chowdhury had explained that the men in question had come into see the chef in the kitchen which is very common in Indian restaurants as a way of socialising.

Mr Burnham, the Chief Immigration Officer, confirmed that there were five officers present at the time of the raid, that they were not in full riot gear but did have to wear stab vests as is standard procedure when visiting a kitchen. He also advised Mr Ansar to use the Home Office helpline for guidance on checking and recruiting staff.

There being no further questions, the Solicitor for Mr Ansar asked members to consider Mr Ansar's good conduct over the last 9 years and his honesty at this hearing and to exercise discretion as Mr Ansar was seeking to put matters right and he hoped revocation would not be the decision taken.

The Police in summing up, stated that four people had been found working in the kitchen illegally, this was a crime and prevention matter and although Mr Ansar had always been very supportive, this was illegal. As the DPS, Mr Ansar should be responsible for the day to day running of the restaurant and yet this had been given over to Mr Chowdhury. They expected the licensing policy to be adhered to and requested suspension or revocation.

The sub-committee adjourned from the Chamber at 12.26 and reconvened at 13.05, when the Chair read out the following statement.

The sub-committee has considered the Licensing Act 2003, the Section 182 guidance and the licensing objectives and is confident that the prevention of crime and disorder and public safety matters are engaged. The sub-committee has further considered the evidence and representations before it today.

We do find that Indian Voojan allowed persons whose credentials were not adequately checked to work there illegally. Consequently, we have decided to suspend the liquor licence for four weeks.

We did contemplate the removal of the Designated Premises Supervisor whose performance we considered to be less than adequate. The sub-committee, therefore, feels that he should take a more active role in the management of the business to ensure that this situation does not occur again.

The Council's Solicitor advised that they had the right of appeal for a period of 21 days from the date of the decision being formally notified in writing.

Diggory Seacome  
**Chairman**