

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 5 June 2018 at 10.00 am**

Present:

Councillor J Maitland (Chairman)

Members of the Committee:

Councillors P Atkinson and D Brown

Also Present:

Councillor C Hampson
K Robson – Senior Licensing Officer
S Buston – Solicitor, DCC
Mr H Tahir – Applicant
Sgt C Dickenson – Durham Constabulary
PCSO M Williamson – Durham Constabulary

1 Apologies for Absence

Apologies for absence were received from Councillors J Blakey and C Carr.

2 Substitute Members

Councillor Maitland substituted for Councillor C Carr.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The Minutes of the meeting held on 24 April 2018 were agreed as a correct record and were signed by the Chair.

5 Application for the Grant of a Premises Licence - Somma Pizza, Unit 1 Hobsons Buildings, Annfield Plain, Stanley

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of Somma Pizza, Unit 1 Hobsons Buildings, Annfield Plain, Stanley (for copy see file of Minutes).

A copy of the application and supporting information had been circulated to Members, together with additional information provided by the Applicant. Members were informed of a page omitted from the Police Bundle of Evidence which had been circulated to all parties in advance of the meeting.

Sgt Dickenson was invited to address the Sub-Committee and explained that the Police had objected to the application as it was considered that the licensing objective 'crime and disorder' had been undermined. Members were informed of visits to the premises on 22 March 2018 and 26 March 2018 when on both occasions a male was found to be working there who had sought asylum in the UK but who had no right to work. Mr Tahir had not carried out the appropriate checks to ensure that the male could work on the premises. Referring to the letter supplied by Mr Tahir dated 31 March 2017 and the registration card, Sgt Dickenson advised that work in the UK was permitted but only in a job which was set out in the Shortage Occupation List in Immigration Rules, and without public funds. Work in a fast food outlet was not permitted. The date of issue on the Registration Card was 16 April 2018 and the application pre-dated this. Immigration had no record of the card being issued. Mr Tahir had been informed that the premises could not open beyond 23.00 until a Premises Licence was granted, but a visit to the premises on 18 May 2018 at 23.20 found staff taking telephone orders, and preparing and serving food. The male was present.

In addition Mr Tahir had on display a food hygiene rating of 5 when the premises had been awarded a score of 4.

Sgt Dickenson asked Members to take into account that Mr Tahir had knowingly opened on Friday 18 May 2018 when the premises should have closed, employed a person who had no right to work and displayed on the premises an incorrect food hygiene rating.

In response to a question from Mr Buston, Solicitor who asked if Mr Tahir had offered an explanation as to why he was open on 18 May 2018, Sgt Dickenson advised that Mr Tahir had said it was because he needed to and that this was the only fast food premises open in the area.

Following a question from Councillor Brown, Sgt Dickenson advised that Mr Tahir had committed a criminal offence by displaying misleading information about the hygiene rating and an offence under Sections 15-25 of the Immigration, Asylum and Nationality Act 2006 Act by employing a person who was not permitted to work. She had concerns about Mr Tahir's co-operation with and support of the Police should there be a serious incident at the premises.

Councillor Atkinson asked if there had been any complaints in respect of the premises from members of the public. Sgt Dickenson advised that there had not but that the application was only recently made.

Following questions from Councillor Maitland, PCSO Williamson advised that there were other fast food outlets in Annfield Plain, and confirmed that there were issues of anti-social behaviour relating to these other premises on occasions.

Mr Tahir was invited to address the Sub-Committee. He advised that the premises had held a 5 star food hygiene rating before 19 March 2018. When this was lowered to a 4 star he had been informed that he could appeal. The Senior Licensing Officer clarified that an inspection had been carried out on 19 March 2018 which had scored the premises at 4 and Mr Tahir had been informed of this in writing the same day. Prior to that date an inspection on 25 July 2016 had awarded a rating of 3. The Officer confirmed that there was an appeal mechanism.

Mr Tahir stated that with regard to the male, he had believed that he could work in the UK and the rules referred to by Sgt Dickenson in relation to Shortage Occupation were new.

Mr Tahir went on to state that he had opened the shop because he had been informed that the Premises Licence would only take 28 days before being granted if there were no objections. He had been out of the country until 15 April 2018 and had believed the Premises Licence was in place on his return. He had held a Premises Licence in another premises, 1 Front Street, Annfield Plain and had moved from these premises in around 2013 to Hobsons Buildings but had continued to pay the licence fees for 1 Front Street which he had occupied from 2011 to 2013. The current premises had opened until 01.00 since.

The Senior Licensing Officer clarified that, according to records back to 2009, no Premises Licence had been granted for 1 Front Street and no fees had been paid. The premises at 1 Front Street was now a barber shop.

In response to a question from Mr Buston, Mr Tahir clarified that the premises remained open until 01.00 on Friday and Saturday and closed before 12 midnight Sunday to Thursday. All businesses in the area were struggling, and business was best on Fridays and Saturdays.

With regard to the male, Sgt Dickenson clarified that Mr Tahir had been informed that the male was not permitted to work by Immigration during their visit on 22 March 2018.

Mr Tahir stated that he did not run the business but owned the premises, which was run by a Manager, however had not employed the male but he was helping out because family circumstances meant that the Manager could not work at the time. When prompted by Sgt Dickenson about a further visit by Immigration on 18 May 2018, Mr Tahir advised that Immigration had said that the male was 'working in breach' but had not removed him from the premises. Members were informed by Sgt Dickenson that as he had been found working on the premises Immigration would investigate, and that Mr Tahir had been told on four separate occasions that the male could not work and that he may face a £20,000 fine.

Mr Buston, Solicitor asked if Mr Tahir accepted that he had formed his own view as to whether the male could work on the premises and had decided that he could. Mr Tahir denied that this was the case and that he was waiting for the Manager to let him go as they did not have the capacity to employ additional persons.

Sgt Dickenson noted that during the visit on 18 May 2018 the Manager was present behind the counter and made the comment that the male was also present, which implied that he was working rather than helping out.

Following questions from Councillor Maitland, Mr Tahir confirmed that he owned the property but did not run the business. He wanted the business to be a success and had therefore applied for the Premises Licence himself. He did not know if the male was paid a wage, this was a matter between the male and the Manager.

Councillor Brown noted that the premises had CCTV installed and asked if it had been used to substantiate what Mr Tahir had said about who worked in the premises. Mr Tahir advised that he had not been asked to provide CCTV by the Police but would be willing to do so if requested.

All parties were invited to sum up.

Sgt Dickenson stated that she now had further concerns, having heard from Mr Tahir that he was the owner of the premises and was not running the business. The Officer did not believe that the licensing objectives would be promoted.

Mr Tahir concluded that he owned the shop and if the Manager did not succeed he would find another person to take on the business. The hours requested for Sunday to Thursday were not needed but 01.00 hours on a Friday and Saturday would make a difference to the business. He accepted that if it was found that the male was not allowed to work he could face a fine of £20,000.

At 10.50am the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 11.05am the Chair delivered the Sub-Committee's decision. In reaching the decision the Sub-Committee had considered the report of the Senior Licensing Officer and the additional information provided by the Applicant, together with the verbal and written representations of the Applicant and the Police. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the application for a Premises Licence be refused.