

mDURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Tuesday 18 September 2018 at 10.00 am**

Present:

Councillor C Carr (Chairman)

Members of the Committee:

Councillors L Brown, C Hampson and M Wilson

Also Present:

Y Raine – Senior Licensing Officer

S Buston – Solicitor (DCC)

Cookson Spice

Mr M Thorley – Acting Chief Immigration Officer

Mr J Ahmed – Licence Holder

Mr M Foster – Licence Holder's Solicitor

Mr T Robson – Training Consultant

Lebaneat

Mrs O Sayed – applicant

Mr Sayed – Lebaneat

Sgt C Dickenson – Durham Constabulary

PCSO R Carey – Durham Constabulary

PCSO A Guess – Durham Constabulary

1 Apologies for Absence

Apologies for absence were received from Councillors D Hicks and L Marshall.

2 Substitute Members

Councillor C Carr substituted for Councillor L Marshall.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Review of a Premises Licence - Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street

Members: Councillor C Carr (Chairman), L Brown and C Hampson.

The Committee considered a report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members. The Senior Licensing Officer advised of additional information received from the Applicant and the Licence Holder which had been circulated to all parties.

Mr Thornley, Acting Chief Immigration Officer from the Home Office Immigration Team explained that the application was as a result of a visit to the premises on 18 November 2017 when four males were arrested for immigration offences. An earlier visit to the premises on 3 March 2016 had resulted in one arrest but that person was released following appropriate checks. He believed that this had given the Licence Holder a false sense of security and no proper checks had been carried out by him in regard to immigration status. The checks that should be carried out by employers were set out on the Home Office website. Mr Ahmed had relied upon hearsay and his casual approach had culminated in a Civil Penalty Notice being issued.

Mr Thornley said however that there were mitigating factors; Mr Ahmed had employed a Licensing Consultant who had carried out thorough training. He believed that Mr Ahmed had learnt from his mistakes and he was satisfied that the proposed modification of the Premises Licence, as outlined in the additional information provided by the Licence Holder's Solicitor would address concerns.

Upon questioning by Councillor Carr, Mr Thornley explained that the documentation of the person arrested on the visit on 3 March 2016 had been found at the individual's home address.

With regard to the four individuals arrested on 18 November 2017, their home addresses had been searched and the documentation found did not support a right to work in the UK.

The length of time taken to issue the Civil Penalty Notice was because this was a lengthy process and Mr Ahmed had appealed against the decision. Mr Foster, the Licence Holder's Solicitor clarified that Mr Ahmed had appealed against the level of fine imposed but had now started making payments.

Councillor Brown asked if there were any records on the premises pertaining to the four individuals. Mr Thornley confirmed that there had been no records available and advised that the Home Office website and guidance clearly stipulated that records should be kept on the premises during employment and for 2 years after leaving.

Mr Foster clarified that this was not an offence but was a factor to be taken into account in building a complete picture of compliance.

Mr Foster was invited to address the Sub-Committee and stated that this was a restaurant in Chester-le-Street, formerly a public house. There had been no other issues with the premises other than what had been heard, and the Home Office were satisfied with the measures proposed to ensure that the premises were compliant.

His client's medical condition had contributed to his poor paperwork, and Mr Ahmed appreciated the seriousness of his actions but had done his best to ensure that this could not happen again. He aimed to operate in line with the proposed conditions, and policies and procedures put in place by Mr Robson.

Mr Robson outlined the training he had undertaken at the premises and confirmed that training would continue and would reflect any changes to legislation. He had been satisfied with the receptiveness of Mr Ahmed and his employees, who fully understood the seriousness of not carrying out the necessary checks on employees.

Following questions from Councillors Brown and Carr, Mr Foster confirmed that refresher training would be initially provided at 3 months and then every 6 months thereafter. Mr Ahmed's accountant would deal with contracts of employment and wages. Mr Ahmed had owned Cookson Spice for seven years and turnover of staff was high. He only employed staff who were referred from the Job Centre, and following full checks.

All parties were invited to sum up.

Mr Thornley reiterated that visits such as that made to Cookson Spice were difficult and business owners were often reluctant to assist, however the measures put in place by Mr Ahmed would enable the Home Office to check documentation on site. Mr Ahmed had received a severe fine, and he was satisfied that the measures put in place and the proposed conditions would address his concerns.

Mr Foster stated that the business was important to Mr Ahmed and that he was already struggling to pay the fine which would be for the next three years. The measures Mr Ahmed had put in place were sufficient to re-assure the Home Office Immigration Team.

At 10.35am the Sub-Committee **Resolved** to retire to deliberate the application in private.

After re-convening at 10.50am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer, and the verbal and written representations of the applicant, the Licence Holder, his Solicitor and Licensing Consultant. 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 Premises Licence continue with the addition of the following further conditions:-

- a) The Premises Licence Holder shall operate a system which ensures compliance with immigration legislation and proves employees' right to work status is evidenced before they commence employment.
- b) Employees' right to work documents will be retained on the premises and made available for the Licensing Authority, Police and Home Office immigration enforcement officers, upon request. Such documents will be retained for a period of two years after employees cease working at the premises.
- a) The Premises Licence Holder shall receive training in relation to immigration after three months, six months and annually thereafter. Records of training for new members of staff shall take place on those occasions and all records of training shall be made available to the Licensing Authority, Police and Home Office immigration enforcement officers, upon request.

The Sub-Committee agreed that the applications on the Agenda in relation to Lebaneat be considered together.

5 Applications to Transfer a Premises Licence and to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor - Lebaneat Wrap House, First Floor, 69 Claypath, Durham

Members: Councillor C Carr (Chair), C Hampson and M Wilson.

The Committee considered the reports of the Senior Licensing Officer regarding applications to transfer the Premises Licence, and to Vary the Premises Licence to specify an individual as Designated Premises Supervisor (DPS) in respect of Lebaneat Wrap House, First Floor, 69 Claypath, Durham (for copy see file of Minutes).

A copy of the applications and supporting documentation had been circulated to Members.

Sgt Dickenson of Durham Constabulary addressed the Sub-Committee and stated that there were two Lebaneats in Durham, both of which were managed by Mrs Sayed. On a visit on 2 August 2018 two people were found to be working at Lebaneat Wrap House who did not have the right to work in the UK. Two workers were also found in the Lebaneat restaurant in North Bailey, where Mrs Sayed was the DPS. The Officer advised that investigations were ongoing.

Sgt Dickenson advised that the Police had objected to the applications because it was not considered that Mrs Sayed could be the DPS at the Wrap House when she was not managing the restaurant in a responsible manner.

Mr Sayed referred to the statement of Sgt Dickenson that Mrs Sayed had been present at the Wrap House on 2 August 2018 but clarified that she was on leave that day. When the Police and Immigration Team had attended the premises at 5pm, the two workers were on a trial shift. The premises had only just opened for the evening and he had not had time to check their documentation.

Sgt Dickinson noted that according to the existing Premises Licence Mr Quareshi was the current Manager of the Wrap House but had not been involved with the premises for two years.

Clarification was sought from Mr Sayed regarding management of the premises and whether alcohol was being sold without a Premises Licence. Mr Sayed advised that he had been running the premises for two years and managers varied as staff changed every week. As there was no Premises Licence for the Wrap House the company advertised that customers could bring their own alcohol.

Mr Buston asked Mr Sayed to confirm that no licensable activities had taken place on the premises or that food had been served after 11pm. Mr Sayed confirmed this to be the case.

At this point Sgt Dickenson advised that the Police had additional information which showed that alcohol was being sold on the premises.

Following a short adjournment the Sub-Committee decided that in the interest of fairness towards the applicant the additional information should not be allowed. However as the Sub-Committee had heard from the applicant that alcohol was not being served which had been disputed by the Police, the Members felt it was necessary to hear verbal representations in this regard.

PCSO Carey advised that she had visited the premises on three occasions and each time there was a stocked bar and people were consuming alcohol.

Mr Sayed reiterated that they permitted customers to bring their own alcohol, which was sometimes ordered as a takeaway from the restaurant at North Bailey. Following the Police visits he had removed alcohol from the bar. On the first two visits the Police had not referred to the sale of alcohol and he had been unsure if the visits related to licensing or immigration.

Councillor Carr made the point that Mr Sayed did not appear to understand the licensing legislation and was asked by Mr Buston to explain what steps Mr Sayed had taken to ensure that the licensing objectives would be upheld.

Mr Sayed advised that a second employee had undertaken the necessary course to become a Personal Licence Holder and was currently undergoing background checks. This employee would become the DPS at the Wrap House; Mrs Sayed would be DPS at the restaurant in future. The premises would employ extra staff who would be trained. The company had introduced new cuisine to the City and he had tried to learn from mistakes and improve how the premises were managed. Mr Sayed was not intentionally operating against the law. He had asked immigration to

assist in finding employees who could cook Lebanese food. He undertook checks every day. Lebaneat employed 50 staff but in the last 6 months had hired around 200 people which showed the high turnover.

All parties were invited to sum up.

Sgt Dickenson advised that the Police objections remained. On 2 August 2018 individuals who did not have the right to work were found in the kitchen, the current DPS and Licence Holder had not been involved with the premises for the last two years, and alcohol had been sold from the premises without a Premises Licence.

Mr Sayed stated that he would carry out the necessary checks on employees and train more staff. The individuals found on the premises during the visit were not working, one was an unpaid trial chef and the other was in training. He had been waiting for documentation from one of the individuals which he had received two days after the visit.

Mr Sayed apologised and advised that he had employed a training consultant; he was trying to improve and grow the business and did not want any problems in future.

At 12.15pm the Sub-Committee **Resolved** to retire to deliberate the applications in private. After re-convening at 12.25pm the Chairman delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer and the representations of the Police and the applicants. Members had also considered the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the applications be refused.