

DURHAM COUNTY COUNCIL

At a Special Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Friday 5 July 2019 at 10.00 am**

Present:

Members of the Committee:

Councillors D Bell, J Blakey and D Brown

Also Present:

C Hazell (Council's Solicitor)

Y Raine (Senior Licensing Officer)

P Chidiac (Applicant)

P J Maryanski (Proposed DPS)

Sgt D Haythornthwaite (Durham Constabulary)

S Mooney (Durham Constabulary – Force Solicitor)

Insp Siobhan Jones (Durham Constabulary)

J Morg (Durham Constabulary)

Councillor J Blakey (in the Chair)

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - Lebaneat, 47 North Bailey, Durham

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of Lebaneat, 47 North Bailey, Durham (for copy of report, see file of Minutes).

A copy of the application and supporting information had been circulated to all parties.

The Senior Licensing Officer presented the report and advised the Sub-Committee that she had been provided with some information from Companies House that showed that the applicant had significant control of the company. All parties to the hearing were provided with a copy of the documentation.

The Senior Licensing Officer advised Members that the premises currently had a premises licence to permit the sale of alcohol and the provision of late night refreshments which was revoked at a meeting of the Council's Statutory Licensing Committee on the 5 February 2019, following a review from Durham Constabulary, the appeal hearing for this licence would take place on the 10 July 2019 at the Magistrates Court.

The application was for the sale of alcohol for consumption on and off the premises and the provision of recorded music indoors from 12:00 hrs until 23:00 hrs Monday to Sunday and from 12:00 hrs until 23:30 hrs on Christmas Day and Good Friday. Both activities were also requested from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

During the consultation period one representation had been received from Durham Constabulary. Comments not amounting to a representation were received from Durham County Council Planning Authority. The Environmental Health Department, Durham Safeguarding Partnership, Fire Safety Authority and the Public Health Department all responded to the consultation with no comments.

Mr Mooney who was representing Durham Constabulary indicated that they were objecting to the application as the granting of the licence would undermine the licensing objective of the prevention of crime and disorder, details of which were outlined in the papers.

The premises had a history of multiple incidents of employing illegal workers and numerous incidents had occurred. The decision to make a review application had not been made lightly and revocation of the licence was sought some 5 months ago.

The police accepted that the applicant was not in a position of ownership at that time, but Mr Sayed had a history of putting others forward but would still be running the premises.

Mr Chidiac the applicant lives outside of the area but intended to run the business and his own premises. He understood that Mr Chidiac had a 51% share in the company but Mr Sayed still had 49% share but there was no formal agreement or documentation to access to confirm if this was a permanent arrangement and where does the premises sit under Lebaneat. Would the recruitment still come from Mr Sayed's company and it was not clear if Mr Chidiac was an investor on the basis of the 51/49 share split. Mr Sayed would still have substantial control over the premises. Only a clear break would suffice for these premises.

Previously, the Sub-Committee had serious concerns over the use of the Licensing Act. The employing of illegal workers was not an isolated incident and was why the licence was revoked on the 5 February 2019.

The Police accepted that the matters were subject to an appeal at court next week but noted that Mr Maryanski ran the premises on a day to day basis but had no previous experience in the licensing trade and the premises required a strong DPS. They believed that Mr Maryanski was part of the premises during the immigration raid so there would be no clean break and asked the Sub-Committee to reject the premises licence application.

Sgt Haythornthwaite then addressed the Sub-Committee and indicated that Mr Sayed made a promise at the meeting held on 5 February 2019 that he would not employ workers without the right to work. However, on the 23 February 2019 when a collision took place a delivery driver working for Mr Sayed under the Lebaneat chain under Lebaneat Express left the scene of the accident but later returned and said he was the driver but he did not work for Mr Sayed he was helping out but did not have the right to work in the UK. Durham Constabulary had ongoing concerns about Mr Sayed who holds 49% shares in the company. They had not had an opportunity yet to go through what that exactly meant but he was still a shareholder in the business.

Mr Chidiac, the Applicant then addressed the Sub-Committee and indicated that Mr Sayed had made a lot of mistakes but asked that the Sub-Committee not look at what had happened in the past and judge him. He assured members that Mr Sayed would not be involved in the premises he would just be supplying the food and he would not be employing staff from Mr Sayed's company.

He had experience in restaurants and worked with a lot of restaurants. Mr Sayed had approached him some 7 months ago as he wanted someone to assist him and they agreed he would have 51 percent of the shares and that Mr Sayed would not get involved with the business. The premises would be run by himself and Mr Sayed would probably only be on the premises once a week.

Councillor Bell asked who would be employing staff.

Mr Chidiac responded that he would be employing staff in the premises as he had the biggest influence and the final decision.

The Chairman asked Mr Chidiac if he had any knowledge of illegal workers and the collision with the delivery driver.

Mr Chidiac responded that he was not aware of any illegal workers and was only aware of the traffic collision when he read the police report.

Mr Mooney asked Mr Chidiac to explain the investment and what arrangements were in place.

Mr Chidiac explained Mr Sayed had an investment in the business, but it was his business.

Mr Mooney then asked if Mr Chidiac had plans in the future to own the remaining shares.

Mr Chidiac responded that not at the moment, but they had been talks of him taking over the whole business in the future.

Mr Mooney then asked if they had any documentation from the purchase to show the arrangements for the business and if the business was still called 'Lebaneat'.

Mr Chidiac responded that he did not have any documentation, but he held 51% of the shares and that the premises would still be known as 'Lebaneat'.

In response to questions from Mr Mooney, Mr Chidiac confirmed that they purchased food from the head office and this arrangement was in place until they got the food right. They did not use the agency to hire employees and this had been done via an advert. He explained the process for the hiring of staff and the arrangements in place for the safeguarding of illegal workers and that they used an agency for the checking of documents.

DC Haythornwaite asked Mr Maryanski who he reported to.

Mr Maryanski indicated that he used to report to Anna, but he now reported directly to Mr Chidiac.

DC Haythornwaite asked if there was any correlation between Lebaneat Ltd and the Lebaneat wrap house.

Mr Chidiac confirmed that they were separate companies.

Mr Mooney asked what experience Mr Chidiac had in the restaurant industry.

Mr Chidiac responded that he had previously managed restaurants then he set up his own wholesale company. He was not required to be at his wholesale business all the time and planned to be in Durham a minimum of 2 days as the traveling was not an issue.

Mr Mooney asked Mr Maryanski how long he had worked at the premises.

Mr Maryanski responded that he started working at Lebaneat last July as a Chef then head Chef and was now training to be a manager. He would like to have his own business in the future.

Mr Mooney asked Mr Maryanski if he was present when immigration attended the premises and if he had any previous experience as a chef.

Mr Maryanski confirmed that he was at the premises when immigration visited and that he had no previous experience in the licensing trade.

DC Haythornthwaite asked Mr Chidiac if he had invested in other customers restaurants and was he aware of the restaurants history and what motivated him to invest.

Mr Chidiac responded that he had not invested in other customers restaurants and was not aware of all the issues with the premises and that he had invested in the business as it was a good price.

In response to a question, Mr Chidiac confirmed that Ms Cotoi did not work at the premises.

In Summing up, Mr Mooney indicated that Durham Constabulary were objecting to the application as they believed that Mr Sayed still had control and influence over the business. Mr Sayed had employed illegal workers and the premises were subject to a lot of concerns. Assurances had been made but this premise was still shown on their website and they were still purchasing supplies from Lebaneat and Mr Sayed still had a 49% share in the business. There were no documents to show the setup of the business.

He asked Members to look at the incident that took place on the 23 February 2019 and asked that the application be refused.

At 11.15 am the Sub-Committee Resolved to retire to deliberate the application in private.

After re-convening at 11.50 am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report of the Senior Licensing Officer, the verbal and written representations of Responsible Authorities and the Applicant. Members had also taken into account the Council's Statement of Licensing Policy and S182 Guidance issued by the Secretary of State.

Resolved: That the application be refused.