

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Spennymoor - Council Offices, Spennymoor on **Tuesday 17 September 2019 at 10.00 am**

Present:

Councillor P Crathorne (Chair)

Members of the Committee:

Councillors L Brown, C Hampson and D Hicks

Also Present:

Councillor D Hicks

Mrs C Hazell (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mrs N Anderson (Licensing Enforcement Officer - Applicant)

Sgt C Dickinson (Durham Constabulary)

PSCO M Williams (Durham Constabulary)

Mr M Thornley (Immigration Officer)

Mr S Winship (Durham Safeguarding Children Partnership)

Mr and Mrs Khalid (Premises Licence Holder)

1 Apologies for Absence

Apologies for absence were received from Councillor M Wilson.

2 Substitute Members

There were no apologies for absence.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The Minutes of the meetings held on 2 April 2019, 14 May 2019, 29 May 2019 and 5 July 2019 were agreed as a correct record and were signed by the Chair.

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

The Committee considered the report of the Licensing Team Leader regarding an application to consider and determine an application by Durham County Council's Licensing Authority to review the premises licence in respect of Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street (for copy of report, see file of Minutes).

A copy of the application, location plan and supporting documentation had been circulated to Members.

The premises currently holds a premises licence that permits the sale of alcohol, the playing of recorded music and the provision of late night refreshments.

On the 11 July 2019, the Licensing Authority received an application to transfer the premises licence with immediate effect from Mr Jaman Uddin Ahmed to Mr Mohamed Khalid.

On the 12 July 2019, the Licensing Authority received a letter from Mr Jaman Uddin Ahmed requesting to be removed as the Designated Premises Supervisor (DPS). Mr Khalid had stated that the premises would not be used for any licensable activities.

During the Consultation period three representations had been received in support of the review application from Durham Constabulary, Home Office Immigration Enforcement Team and the Council's Durham Safeguarding Children Partnership.

The Environmental Health Department, Public Health Department, Planning Authority and Fire Authority all responded to the consultation with no comments.

There were no questions of the Officer.

Mrs N Anderson, the Licensing Enforcement Officer presented her report and advised Members that they had asked for a review of the premises licence due to a number of issues. The premises licence had recently transferred to the landlord of the property and the premises were not currently selling alcohol.

On the 18 September 2018 the premises licence was reviewed where Members agreed to add some additional conditions onto the premises licence. The review application had been submitted following an immigration visit in 2017.

On 23 May 2019 a joint visit had been made to the premises where immigration offences were identified and fundamental failings to comply with the premises licence conditions which undermined the licensing objectives.

The Licensing Enforcement Officer advised members that there was no Designate Premises Supervisor at the present time but if a DPS transfer application was submitted to the Licensing Authority then it could have immediate effect, so this would mean that they would be able to sell alcohol straight away.

The Council's Solicitor sought confirmation of who was interviewed in the investigation.

The Licensing Enforcement Officer confirmed that Mr Ahmed had been interviewed under caution and the licensing trainer to the business had been interviewed but not under caution.

Sgt Dickinson from Durham Constabulary was invited to address the Sub-Committee and indicated that they supported the application for the review of the premises licence.

This was the third time that the premises licence was visited by officers with illegal workers been arrested at the premises. The first occasion on the 3 March 2016 whereby one worker was arrested, the second visit on 18 November 2017 whereby four arrests were made and now the third occasion on 23 May 2019 whereby four males were encountered and three were arrested with the fourth being asked to leave the premises.

At the time of the immigration visit in May 2019 the Premises Licence Holder and the Designated Premises Supervisor were already in the process of paying a civil penalty of £37,000 which was the result of the previous immigration visit in November 2017.

Mr Ahmed had been the subject to a licensing review on the 18 September 2018 and eight months later they are subject to another review with illegal workers and breaches of the premises licence conditions.

Durham Constabulary had been provided with a letter from Mr Khalid advising that Mr Ahmed was to be removed as the DPS. Mr Ahmed was still working at Cookson Spice and was still in charge and answered questions of officers when they visited the premises.

No application had been made for a DPS and they would expect the landlord to intervene sooner than he did and had only intervened with the premises licence was in jeopardy.

The way Mr Ahmed had conducted himself since been given a second chance by the Statutory Licensing Sub-Committee to improve showed that he had a total disregard for the Licensing Act and the promotion of the licensing objectives and continued to exploit people for profit.

Following a question from Councillor Brown, PCSO Williamson confirmed that no alcohol was being sold by the premises, but they had not asked about training.

Mr Winship, Durham Safeguarding Children Partnership confirmed they supported the review of the premises licence and had concerns of the protection of children and young people from harm.

Councillor Brown asked if the refusal register was available during the visit to the premises.

The Licensing Enforcement Officer responded that the refusal register was not available when they visited the premises.

Mr Thornley, Acting Chief Immigration Officer addressed the Sub-Committee and indicated that Cookson Spice was not a stranger to immigration, and they had made significant arrests from the premises. Three immigration offenders had been arrested and a further immigration offender asked to leave the premises as he held no right to employment.

Out of the three arrested, two were served immigration paperwork as having worked in breach of their visa conditions and were removed from the United Kingdom to India and Nigeria respectively. The third male a Bangladeshi National who had previously been served immigration paperwork as having overstayed his visa had since claimed asylum and was currently on immigration bail. No penalty had been imposed on the business for these immigration issues due to the evasive nature of the illegal workers that were found.

He then referred to the documentation found at the premises that was piecemeal and unacceptable and of poor quality. He suggested that if any further conditions were imposed by the Sub-Committee then these would only be ignored as Mr Ahmed had already failed to comply with the licensing conditions that were imposed at the last review hearing and the landlord was not taking matters seriously.

He then stated that employing illegal worker was very serious and it negatively impacted on the wages of lawful workers. Employers had an important role to play to ensure that they did checks to ensure that they did not employ illegal workers.

Immigration had visited the premises three times and on the second visit a fine had been implemented and the conditions from the last review had been forgotten or ignored and they had failed the licensing objectives.

In response to questions, Mr Thornley advised that the civil penalty notice was being paid piecemeal and that no action was taken from the third visit and two persons were removed from the United Kingdom.

Mr Khalid, the Landlord was invited to address the Sub-Committee and stated that the property was refurbished and put onto the open market to be leased. A lease was granted to Mr Ahmed on the 18 March 2011 for a period of 21 years and had been in the premises for eight years and they could not interfere in the running of their business.

He originally held the premises licence which was transferred to Mr Ahmed on 18 March 2011 and the leaseholder had failed to inform him what was going on and he learnt of the issues from a third party. Upon finding out about the illegal workers he asked Mr Ahmed to surrender as DPS and that no licensable activities could take place at the premises.

He then informed the Sub-Committee that he was currently taking legal advice on the lease for the premises and he assured Members that no licensing activities would take place at the premises. If any activities took place, he would immediately inform the authorities.

Councillor Hicks asked if they had the lease until 2032.

Mr Khalid advised that this was the case, but they were taking legal advice on reviewing the lease.

Councillor Brown referred to the lease given to Mr Ahmed in 2011 and sought clarification on Admiral Taverns.

Mr Khalid advised that he had bought the property from Admiral Taverns and was transferred to his daughter then transferred to the leaseholder.

Councillor Brown referred to Companies House and the business Cookson Spice was now an incorporated company as of the 29 August 2019 with the Director being Rahima Akthar.

Mr Khalid responded that he did not know this but would investigate it further.

The Council's Solicitor asked Mr Khalid how he would ensure checks were made and when did he intend to make a decision on the review of the lease.

Mr Khalid responded that he would visit the premises twice a week and was taking legal advice on the lease as it had been breached.

The Council's Solicitor then asked Mr Khalid when he had been made aware of the September 2018 proceedings and by whom.

Mr Khalid indicated that he was not made aware of these proceeding until quite late by Mr Ahmed's solicitor after proceedings had taken place. He advised him that the licence had been reviewed and further conditions had been added to the premises licence.

He advised Members that they had a portfolio of properties and they expected them to abide by the rules and regulation as they could not check who they employed and was not the responsibility of the landlord.

Councillor Crathorne asked what they intended to do if they were unable to terminate the lease.

Mr Khalid stated that they would ensure that no alcohol was been sold at the premises.

Councillor Crathorne indicated that it was not just about the sale of alcohol, illegal workers were also an issue and how was he going to ensure that this would not happen again.

Mr Khalid responded that he would terminate the lease immediately.

Councillor Crathorne stated that the premises were in front of the Sub-Committee in 2018 and asked what had been put in place following the hearing.

Mr Khalid indicated that he had been assured that the premises were keeping records of all employees and had physically been shown the records. He would keep a close eye on him, and he had confronted him a few days ago about the third visit by immigration and he showed him the no action and no civil penalties notices.

Mr Thornley stated that no civil action had been taken but two immigration offenders had been deported from the UK.

Councillor Hicks asked if the business would be viable without a premises licence.

Mr Khalid indicated that he did not think that the business would be very successful without being able to sell alcohol.

Sgt Dickinson stated that previously Mr Khalid indicated that he could not interfere in the business as landlord but was now saying he would.

Mr Khalid responded that he was now the Premises Licence Holder.

Following a no of questions from Sgt Dickinson, Mr Khalid indicated that he had a number of premises under his portfolio, the majority of which were commercial, but one was a licensed premises. He lived in the Newcastle area so had not had sight of the press release following the immigration raid.

In Summing up, Mrs Anderson indicated that although the premises were not serving alcohol, they were still able to remain open until midnight to serve hot food. The Licensing Authority still had concerns as illegal workers were found in the kitchen.

Mr Khalid advised that he had given Mr Ahmed a notice to advise that he was unable to serve food after 11.00 pm or play music.

Mr Thornley indicated the Mr Ahmed had been giving a warning last time and told to keep adequate records. When they conducted the latest visit with licensing, they thought it would be five minutes but was two to three hours dealing with four offenders. He did not believe that the licence holder would have any input into how the premises were run and believed revocation was the only way forward.

Sgt Dickinson confirmed what Mr Thornley had stated that although the licence had been changed into the name of Mr Khalid, they had no confidence that there would be any change in how the business would be run.

Mr Khalid gave an undertaken that he would keep a close eye on the premises and anything out of order he would report to authorities immediately.

At 10.45 am the Sub-Committee Resolved to retire to deliberate the application in private.

After re-convening at 11.05 am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report of the Licensing Team Leader, the verbal and written representations of the Applicant, Responsible Authorities and the Premise Licence Holder. 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 Premises Licence for Cookson Spice be revoked.