

DURHAM COUNTY COUNCIL

At a Special Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 1A, County Hall, Durham on **Monday 14 August 2023 at 9.30 am**

Present:

Councillor L Brown (Chair)

Members of the Committee:

Councillors C Hunt, A Watson and M Wilson

Apologies:

Apologies for absence were received from Councillors D Brown

Also Present:

H Johnson – Licensing Team Leader

C Hazell – Durham County Council Solicitor

J Henderson – Home Office Immigration Enforcement

Mr Bilgin – Applicant

1 Apologies for Absence

There were no apologies.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Review of a Premises Licence - Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham, DH6 3NJ

The Chair welcomed everyone to the meeting and introductions were made.

The Committee considered a report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for the review of a Premises Licence for Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham, DH6 3NJ (for copy of report, see file of minutes).

The Licensing Team Leader informed the Committee that the application to review the premises Licence for Turkish Delight was received on 19 June 2023 by the Home Office Immigration Enforcement (Responsible Authority under the Licensing Act). During the consultation period a response was received from the licence holder that provided a statement as background information. The responsible authorities listed in the report were consulted with confirmation that they had no comments to make regarding the application.

All parties were given the opportunity to ask questions of the Licensing Team Leader.

Councillor L Brown asked whether the annual premises licence fee had been paid following the suspension of the licence in October 2022. The Licensing Team Leader confirmed that the fee had been paid on 11 August 2023 at the recommendation of the Licensing Team. She responded to Councillor L Brown's query that there had been no evidence put forward to the Licensing Team that the license holder had operated illegally whilst the licence was suspended. She confirmed that it was the licence holder that would be responsible for the premises licence.

Mrs Henderson from the Home Office Immigration Enforcement addressed the sub-committee to explain that they were an intelligence led agency and had received intelligence that a man was working in the premises at the Turkish Delight illegally. They carried out their first visit on 14 October 2022 where they arrested a man as it transpired that his visa had expired in 2014 and he had no further application to work in the UK. When interviewed the man stated that he was the manager and had worked there since 2019 for Mr Mahfoudi. A second visit carried out on 26 April 2023 found the same man working in the premises solely alone. Mr Mahfoudi was issued a fixed penalty fine of £10,000. Officers found no sighting of the business listed at Companies House.

Mrs Henderson noted that there was a short time frame between both visits with two breaches for the same person. After the first infringement the man was told that he was not allowed to work in the UK. There were simple checks that could be carried out by anyone to ensure someone had the right to work in the UK including a simple youtube tutorial posted on the Home Office's webpage. This simple process was not followed.

Councillor M Wilson asked for clarity as to what had not been paid. The Licensing Team Leader clarified that it was the annual premises licence fee that had been paid but the fixed penalty fine had not. Mrs Henderson noted that the man had an outstanding application for asylum and lived in the flat above the shop.

The Chair wanted to know if the man had a tenancy agreement for the flat with Mr Bilgin. The Licensing Team Leader was unsure if there was a tenancy agreement. It would depend on the ownership of the flat as to who the tenancy was with as the flat was separate to the premises. Mr Bilgin confirmed he owned the flat but the lease was in Mr Mahfoudi's name. Mrs Henderson confirmed that she had not seen sight of a tenancy agreement.

Councillor L Brown wanted to know whose name the fine was in. The Licensing Team Leader verified that the fine was in Mr Mahfoudi's name.

Councillor L Brown queried whether Mr Bilgin would have had knowledge about the fine. The Licensing Team Leader replied that the fine was sent to the business address therefore it would depend on whether this information had been passed on to Mr Bilgin.

Councillor L Brown asked why the review of the premises licence had not taken place earlier. The Licensing Team Leader confirmed that a review would only take place if a responsible authority submitted an application for a review. Mrs Henderson commented that a closure notice would also trigger a review of a premises licence.

The Council's Solicitor wanted to know if Mr Bilgin was aware of the business employing an illegal worker. Mrs Henderson replied that it was unclear if Mr Bilgin was aware as he was not present when the arrests were made.

Mr Bilgin addressed the Sub-Committee to explain that he had listed the business to Mr Mahfoudi in June 2020 not 2019. The lease was signed in July 2020 as he could no longer operate the business following a heart operation. Mr Mahfoudi had shown a British Passport on signing the lease after which Mr Bilgin had travelled to Turkey to recuperate. Mr Bilgin stated that it was Mr Mahfoudi who had employed the man as he had never met him. Mr Bilgin claimed he was only aware of the situation after he had returned from Turkey when Mr Mahfoudi had failed to pay rent and he had found the shop closed due to immigration arresting the employee. Mr Bilgin felt that his only mistake was in transferring the business to Mr Mahfoudi.

Cllr Hunt wanted to know why the premises licence had not been transferred to Mr Mahfoudi when the business was. Mr Bilgin replied that he was not aware that he was required to transfer the licence.

Councillor L Brown wanted to know if the shop had been open since Mr Bilgin's return from Turkey. Mr Bilgin replied that the shop was open but only for three hours per day and it closed at 10pm. He noted that once he was aware of the issue he had cancelled the lease with Mr Mahfoudi.

The Licensing Team Leader queried whether Mr Bilgin employed anyone at present and if he was aware of the right to work checks. Mr Bilgin responded that he didn't employ anyone and he was aware of the checks. He declared that he had recently been approached by someone from Sri Lanka who had worked a day but he did not employ them as upon checking their passport found that they did not have permission to work in the UK.

The Council's Solicitor had read within the report that the CCTV was not working and asked Mr Bilgin to provide details. Mr Bilgin stated that when he had left the shop the CCTV was in working order but upon his return had found that the cables had been cut. He had also found the premises to be extremely dirty. He agreed that he would address this and have the CCTV repaired and the premises cleaned.

The Licensing Team Leader updated the Sub-Committee that operational CCTV was a condition of the premises licence. The Licensing team when attended, had found the premises busy but could not carry out a full investigation as it was before the time the licence would commence. They did note that the premises did not have a licensing summary on display that was also a condition of the premises licence. If the premises was open after 11pm the CCTV would need to be working and the licensing summary on display. She agreed to follow this up if the premises licence was still in operation following the meeting.

At 9.55 am The Committee consisting of Councillor L Brown, Councillor C Hunt and Councillor A Watson **Resolved** to retire to deliberate the application in private. After re-convening at 10.05 am the Chair delivered the Sub-Committees decision.

In reaching their decision the Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change, verbal and written representations from the Home Office Immigration Enforcement and from the Applicant and responses from the responsible authorities listed in the report. Members also considered the Councils Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the Premises Licence be revoked