

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 23 April 2015

Present: Councillors S Niblock
J Salter
H Smith

64 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - NEWS AND BOOZE, BOROUGH ROAD, BIRKENHEAD**

This meeting was reconvened from Wednesday 25 March 2015 (minute 56 refers).

Sergeant S Barrigan attended the meeting.

Mr Singh, Premises Licence Holder was in attendance together with his Solicitor, Mr C Johnson.

The Licensing Manager reminded all parties that the review had been sought by Merseyside Police and that the grounds for review related to the premises knowingly employing an individual who could not lawfully be employed in the UK.

Mr Johnson addressed the Sub-Committee. He made reference to the documentation that had been referred to prior to the adjournment of the previous hearing. He advised that there had been some confusion as to where Mr Singh had taken his exam for Personal Licence Holders. He informed Members that although Mr Singh had originally thought he had taken the exam in Wirral, he had actually taken it in Wembley.

Mr Johnson responded to questions from Members of the Sub-Committee and Sergeant Barrigan.

Sergeant Barrigan questioned Mr Johnson in respect of where Mr Singh had taken his exam for Personal Licence Holders and referred to Section 158 of the Licensing Act 2003 and Section 1404 of Patersons.

Mr Johnson advised Members that Mr Singh had attempted to verify the address of the individual he employed at the premises, however, he accepted he should not have permitted him to work. He advised that he was paying the penalty by way of a fine of £5,000. He informed Members that Mr and Mrs Singh were community minded and relied on the business for their income. Mr Johnson requested that the Premises Licence be modified by way of conditions being imposed and that the Licence not be revoked.

Sergeant Barrigan urged that serious consideration be given to the revocation of the Premises Licence. He referred to Section 25 of the Immigration Act 1971 and believed that several examples of this offence may have been committed. Sergeant Barrigan believed it would be appropriate that serious consideration be given to the revocation of the Premises Licence.

Members gave careful consideration to the application made by Merseyside Police to review the Premises Licence at News and Booze, Borough Road, Birkenhead and the representations made in writing and orally at the hearing by Sergeant Barrigan from Merseyside Police as well as Mr Johnson, on behalf of his client Mr Singh, the current Premises Licence Holder and Designated Premises Supervisor.

In determining the review application Members had regard to the licensing objectives, in particular, the prevention of crime and disorder, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003, in particular, paragraphs 11.16 to 11.28.

Members accepted the evidence provided by Merseyside Police that there had been individuals employed at the premises who had no right to work in the UK.

In this regard Members gave particular consideration to paragraph 11.27 and 11.28 of the Guidance which identifies that the use of a licensed premises for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter is to be treated particularly seriously and that the revocation of the licence should be seriously considered.

In determining the review Members had regard to whether Mr Singh knowingly employed individuals who were not allowed to work in the UK. It had been admitted by Mr Singh and on Mr Singh's behalf that he had knowingly employed Navpreet Singh and had permitted Bupinder Kaur to assist him in the shop at a time when they were not allowed to work in the UK. Members did not consider that Mr Singh had taken reasonable steps to identify the legal status of his employees to work in the UK.

Members heard evidence from Merseyside Police in respect of the Personal Licence qualification accredited to Mr Singh. Sergeant Barrigan had made enquiries regarding the veracity of the certificate and maintained that it could not be confirmed whether or not Mr Singh attended the training and completed the exam for this qualification. Mr Singh's evidence was confused and he was initially unsure as to where he took the test. Mr Johnson, on Mr Singh's behalf, initially indicated that Mr Singh took the test in Wirral, however, after an adjournment of the proceedings, Mr Singh told Members that he took the test in Wembley and gave details of who attended the course on the day. Some of the evidence provided by Mr Singh appeared to be in conflict with the enquiries made by Sergeant Barrigan.

In considering the review, Members recognised that there had been no further convictions since January 2014 in respect of the employment of individuals who did not have the right to work in the UK, however no evidence had been produced as to how matters would be dealt with in the future and no evidence was presented in respect of any policies or procedures that would be, or are, implemented to prevent the employment of individuals who do not have the right to work in the UK.

Members have had particular regard to paragraph 11.28 of the Statutory Guidance which directs the Licensing Authority to use the review procedure effectively to deter such criminal activity and have given consideration as to whether any conditions could be attached to the Licence to address the cause of the problem. In this regard, Members did not consider that there were any conditions or any other steps that

could be implemented or taken to ensure the licensing objective of crime and disorder would not be undermined and that this type of activity would be deterred.

Resolved –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.

(2) That the Premises Licence be revoked.