

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Licensing Sub-Committee held in Trent Meeting Room at The Guildhall, Gainsborough on Tuesday 25 June 2014 at 10am

Present:
Councillor David Cotton
Councillor Jessie Milne
Councillor Lewis Strange

In Attendance :
Phil Hinch Licensing Team Manager
Kim Roberts Lincs Legal Services
Tracey Gavins Licensing and Enforcement Officer
Dinah Lilley Governance and Civic Officer

Also in Attendance :

Sanu Meah Manager, Gate of India
Dulal Kamali Designated Premises Supervisor, Gate of India
PC Enderby Lincolnshire Police
PC Figgitt Lincolnshire Police

1 ELECTION OF CHAIRMAN

RESOLVED that Councillor David Cotton be elected Chairman of the Licensing Sub-Committee for this meeting.

Councillor David Cotton took the Chair for the remainder of the meeting and round the table introductions were made.

2 MEMBERS' DECLARATIONS OF INTEREST

Members sought to verify whether the HMRC officer named in one of the appendices was in fact a West Lindsey District Councillor, however this could not be ascertained at this time and, as no discussions had taken place with any parties on the current licence review, there was no requirement for declarations of interest.

3 LICENCE HEARING RE: APPLICATION FOR THE REVIEW OF A PREMISES LICENCE AT THE GATE OF INDIA, 5 KING STREET, MARKET RASEN APPLICANT: SANU MEAH

The legal representative set out the procedures that would be followed.

The Licensing Team Manager introduced the report stating that the review of the premises licence had been requested by the police as they believed that the establishment was failing to operate in line with the licensing objectives. No other representations had been received and the Sub-Committee needed to be satisfied that the licence holder was promoting the licensing objectives.

The Chairman noted that appendices to the report contained exempt information and should reference be made to any statements in the appendices the meeting would need to move into closed session.

The applicants for the review, Lincolnshire police, described the circumstances of a visit to the Gate of India following intelligence received, to verify the presence of illegal workers. Three employees were arrested. The review of the licence was requested as the employees were involved in licensing activities, and did not comply with tax, insurance and employment legislation, it was therefore believed that the licensing objectives were being undermined.

The employment of illegal workers was to the detriment of other establishments who complied with the law, and it was noted that illegal immigrants were not eligible for employment protection and were denied basic rights and usually poorly paid. An inspection of the premises revealed what appeared to be living accommodation for up to three people in the upper floor of the building, but with no sanitary facilities other than that provided for the restaurant.

The police stated that public safety was compromised by the fact that illegal workers had not been subject to security checks or any level of training. Organised gangs were involved in people trafficking and whilst the Gate of India may not be directly involved in this practice, it was part of the demand chain, by employing such workers.

The Designated Premises Supervisor (DPS) and the Manager of the Gate of India described the circumstances which led to the employment of the three workers in question. A family bereavement and subsequent necessary arrangements had led to the restaurant being short of family members to staff the business. A friend of a relative had recommended the three individuals as able to work and their eligibility to work was established verbally, with documentation to be produced in due course.

The facilities on the upper floor were provided for family members to use as a rest room on occasions of high volume of trade when the restaurant was particularly busy, during the racing season, as they lived some distance away. The Manager stated that the restaurant had been a respected business for 12 years with a good reputation and had never done anything wrong before. The reasons for not employing illegal workers were acknowledged and it was admitted that a mistake had been made during a difficult time, and this would not happen again.

Sub-Committee Members asked a number of questions seeking to verify the date of the intelligence received by the police, the date of the family bereavement and the date of the police and immigration officers' visit. Further questions were asked regarding the attempted verification of documentation of eligibility of the workers, and also the apparent presence of accommodation in the premises.

The meeting adjourned at 11.05am whilst the Sub-Committee retired to deliberate on the evidence heard, along with the legal representative and the Governance and Civic Officer.

Sub-Committee Members returned to the meeting at 11.55 and presented their decision.

RESOLVED that the premises licence for the Gate of India, Market Rasen, be revoked for the reasons set out below.

The Committee felt that, having regard to the Home Office Guidance sec 182 11.27. "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". The documentation of any workers employed should be checked, at the time of employment, this was not done and admitted in evidence. There is a reasonable expectation that the period of the six days when these workers' legal status could have been checked during that time given the manager and the DPS were still in the UK. The Committee was also mindful that when the workers were employed on 18 April this was 12 days after the family bereavement and in evidence we were told that the restaurant remained open all the time and for usual hours.

The home office guidance says that a responsible licensing authority is expected to consider revocation of the premises licence even for a first offence, and we must have regard to that guidance and give full weight to this guidance.

We believe the licensing objectives have been undermined and breached in terms of protection of the public as these workers were unknown or their status not clarified. Also given the serious nature of illegal immigration, and employment of such illegal workers is something this licensing authority takes at the highest level, and is a criminal offence, the objective of the Prevention of Crime, given these offences, is also undermined.

The Chairman advised that all parties would be notified of the decision in writing within five working days of today's hearing and reminded those present of the right to appeal to the magistrates' court within 21 days of receiving such notice.

The meeting closed at 11.59am.

Chairman