

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Licensing Sub-Committee held in Trent Meeting Room at The Guildhall, Gainsborough on Friday 19 September 2014 at 10am

Present:
Councillor Chris Day
Councillor Paul Howitt-Cowan
Councillor Irmgard Parrott

In Attendance :
Phil Hinch Licensing Team Manager
Jo Furner Lincs Legal Services
Dinah Lilley Governance and Civic Officer

Also in Attendance :

Michael Kheng Applicant's representative
Sergeant Enderby Lincolnshire Police

1 ELECTION OF CHAIRMAN

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

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

2 MEMBERS' DECLARATIONS OF INTEREST

There were no Members' declarations of interest.

**3 LICENCE HEARING RE:
APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT THE
GATE OF INDIA, 5 KING STREET, MARKET RASEN
APPLICANT: Mr Mohammed Jillul HAQUE**

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

The Licensing Team Manager presented the report and outlined the reason for the hearing. A previously held licence for the premises in question was revoked in June 2014, the decision for which was currently being appealed. The present application was in the name of a different person.

Any application for a licence must be accompanied by the steps the applicant intends to take to meet the four licensing objectives as set out in the report. Subsequently a representation had been received from Lincolnshire police requesting a condition to be applied under the objective 'The Prevention of Crime and Disorder'.

The Sub-Committee was reminded that they had to be satisfied that the Licensing Objectives would be met and that any conditions applied had to be appropriate.

The applicant's representative noted that only one representation had been submitted, and pointed out that the applicant had previously held a licence at the relevant premises and also currently held a licence for a premise in Scunthorpe. Mr Kheng cited Home Office guidance and relevant legislation stating that there was a duty to prevent the employment of persons not entitled to work in the UK, and pointed out that the requested condition would be a duplication of said legislation which could be subject to a judicial review, therefore the imposition of the condition would be unwise.

The Sub-Committee sought verification that the applicant was a different person to that whose licence had been revoked in June, this was affirmed.

The Police representative informed the Sub-Committee that of those premises investigated acting on intelligence received, around 70% of Asian restaurants were found to be employing persons not entitled to work in the UK, so the problem was prevalent. It was pointed out that the request for the condition to check employment status was for the protection of the licence holder and also the public, and was necessary for the prevention of crime.

In questioning, Mr Kheng noted that the statistics quoted did not apply to all Asian restaurants, only those on which intelligence had been received, 30% of which proved groundless.

In summing up the Police representative reminded the Sub-Committee that the request for the condition was to offer protection. The applicant's representative noted that the condition would be a duplication of the legislation in the Home Office guidance, so was not required.

The meeting adjourned at 10.39 am 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 11am and presented their decision. The legal representative informed those present that she had given legal advice on the interpretation of the duplication of legislation in the application of conditions.

The Sub-Committee, having had due consideration for the Licensing Act, Section 182 guidance, Licensing Authority's Policy Statement and any relevant case law, and submissions, both written and oral, by the parties, have reached the decision to grant the licence as applied for.

Despite the representations by the police, the Sub-Committee must make an evidence based decision. No evidence had been presented to this Sub-Committee of any history of employment of persons not entitled to work in the UK by the applicant in the running of any other business. The applicant has assured the Sub-Committee that this is an entirely new and separate operation, and whilst some of the current employees shall remain, management of the premises, including the hiring of staff, will not be dealt with by any persons currently involved with the premises.

Therefore the Sub-Committee does not feel there is sufficient evidence to justify the conditions requested, although the police were clearly only acting to safeguard the premises licence holders. There is a review process which allows action to be taken in the event that there are any problems in the future.

RESOLVED that the premises licence for the Gate of India, Market Rasen be granted as applied for.

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 11.05 am.

Chairman