

MINUTES OF	LICENSING PANEL
MEETING DATE	Tuesday, 27 November 2018
MEMBERS PRESENT:	Councillors Jacqui Mort (Chair), Paul Wharton and Jane Bell
OFFICERS:	Tasneem Safdar (Senior Solicitor), Mark Marshall (Head of Licensing) and Dianne Scambler (Governance and Member Services Team Leader)
OTHER MEMBERS AND OFFICERS:	Justin Abbotts (Licensing Officer), Chris Ward (Licensing Officer) and Louise Hawkins (Trainee Governance and Member Services Officer)
PUBLIC:	0

5 Apologies for absence

No apologies were received.

6 Declarations of Interests

There were no declarations of interests.

7 Review of Premises Licence:-Moss Lane Convenience Store

The Panel was reconvened following the original meeting on 7 November 2018 to determine the review of an application in respect of Moss Lane Convenience Store, pursuant to the provisions of Section 52 of the Licencing Act 2003.

The initial hearing was adjourned as it was not in the public interest to continue the meeting. This was due to the meeting not adhering to its own constitution, in that neither the Chair nor Vice Chair of the committee were available to lead the meeting.

The application for review was brought by the Council's Head of Licensing Mark Marshall on behalf of the Licencing Authority as a Responsible Authority. The review was instigated as the Licencing Authority were of a view that 3 of the 4 licencing objectives had been undermined. These being the prevention of crime and disorder, the protection of children from harm and public safety.

The Premises Licence Holder and Designated Premises Supervisor, Ranga Ratnasekera was in attendance and was represented by Paul Douglas.

On 4 June 2018 the premises was visited by Licensing to carry out a routine compliance check. Numerous matters were found and communicated to the licence holder. A summary of the problems were;

- a) No Proof of Age Training available for Donna Bamber who had been employed at the premises for 1 month,

- b) Unable to maintain/operate the CCTV system (a and b were conditions attached to the licence)
- c) Fire separation issues
- d) Work Place safety problems particularly in relation to flooring and storage areas.

Following the original visit the premises were then visited again on the 24 August 2018 in joint partnership with the Home Office and Lancashire Fire and Rescue.

The Head of Licensing explained that there was one employee working, Nadeera Kaushika Rupasinghe. Enquiries were made by the Home Office regarding Rupasinghe's immigration status which revealed he did not have rights to work in the UK. A search of Rupasinghe's mobile phone revealed that he had been working for the Premises Licence Holder since December 2017. The licence holder was informed that she would be issued with a civil penalty for employing an illegal worker.

A further visit was undertaken on 7 September 2018 as part of a directed test purchase exercise. An underage volunteer was sent into the premises by a Police Constable and was sold alcohol. The seller was Donna Bamber, a staff member the licencing authority had met on the first visit in June 2018.

Mr Marshall advised to the Panel that he had visited the premises again on the 10 September 2018. To check if staff training was in place. The Premises Licence Holder was unable to provide any training records, despite having been advised to do so.

The Panel then heard representations from Mr Swayne of the Home Office, Immigration Enforcement Section. Mr Swayne explained that they had concerns that the Premises Licence Holder had employed an illegal worker since December 2017 until the discovery in August 2018. Currently, his immigration status is as an over stayer in the UK, after his claim for asylum was applied for on 13 June 2017 was refused. Although it was confirmed that there was an outstanding review from 13 June 2018.

Mr Swayne explained to the Panel that when Mr Rupasinghe claimed asylum he was given an Asylum Registration Card which clearly states employment is prohibited. When he sought employment at Moss Lane Convenience Store, it was the responsibility of the owner of the business to make enquiries in respect of any foreign national's right to work in the UK. When questioned whether Mr Rupasinghe's immigration status had been checked, the Premises Licence Holder provided that her husband had asked for documents and was told by Mr Rupasinghe that he was on a five year working visa and that her husband had seen his application for a visa.

Mr Douglas on behalf of Mrs Ratnasekera made representations to the Panel. Mr Douglas provided that when Mr Rupasinghe was first employed the Premises Licence Holder was heavily pregnant and accepts that the checks carried out were not good enough. The Premises Licence Holder and her husband accepted all the evidence presented by Mr Marshall and Mr Swayne and no attempts were made to make any excuses.

With regards to the underage sale, Mr Douglas stated that Miss Bamber had been given the training package by the Premises Licence Holder a month after she commenced work at the premises and after the visit by Mr Marshall. The Premises Licence Holder thought Miss Bamber understood the policy. Mr Douglas provided that he had been brought in to deal with the issues at the premises and he was ready to undertake training of the Premises Licence Holder and any employees. He provided that there was no problem with the CCTV and that the Premises Licence Holder now understood the terms of the licence.

The Panel queried whether Mr Rupasinghe had also been on the account books. The Premises Licence Holder confirmed that she did not deduct national insurance or tax for Mr Rupasinghe and provided him with cash payments.

In reaching its decision the Panel took into account the following:

1. Both written and oral evidence presented in connection with the hearing
2. The Licensing Act 2003
3. S182 Revised Guidance of the Licencing Act 2003
4. South Ribble Borough Council – Licencing Policy

The Panel carefully considered all the evidence provided by the parties at the hearing together with the S182 Guidance and the Council's licencing policy. It was the Panel's view that Mr Marshall had appropriately made contact with the Premise Licence Holder on the 5 June 2018 by letter to raise concerns about problems identified at the premises. A training package was also enclosed for the Premises Licence Holder due to the fact that licensing conditions were not being adhered to. This the Panel felt was the warning for the Premises Licence Holder to take appropriate action.

The Panel considered the steps it could take to address the undermining of the licensing objectives. It considered that the modifying of the licensing conditions would not assist as there was already no compliance with the training condition, which was one of the issues. The panel felt that enhancing this condition would not work. It was obvious that the management of the premises was a problem. Therefore, the removal of the designated premises supervisor was considered but it was concluded that this would have no real effect.

Resolved (Unanimously)

Decision:

In the circumstances, the Panel felt that the only appropriate measure was to revoke the licence. Serious criminal activity had taken place at the premises and it was warranted that in the public interest having regard to the two considerations of prevention and deterrence, revocation of the premises licence was an appropriate and proportionate response in terms of promoting the licencing objectives.

Any party aggrieved by the decision of the panel, has a right to appeal the decision to the Magistrates Court within 21 days.

8 Review of Premises Licence:- Sangam Balti House

The Panel met to review the premises licence for Sangam Balti House, 14-15 Hope Terrace, Lostock Hall pursuant to the provisions of Section 52 of the Licensing Act 2003.

The application for review was brought by the Council's Head of Licensing Mark Marshall following on from a licensing inspection. A number of concerns were discovered at the premises regarding fire safety issues, housing offences and the Health Act 2006 offences.

The Premises Licence Holder and Designated Premises Supervisor, Alamin Bhuyian was in attendance and was supported by Councillor Mike Nelson.

Mr Marshall highlighted that upon inspection of the premises on the evening of the 24 August 2018, licensing officers found numerous issues in respect of fire safety that included:

- a) The fire alarm was inoperable/no evidence of testing
- b) Emergency lighting, no evidence of testing
- c) Defective fire doors compromising the means of escape
- d) Unmaintained firefighting equipment
- e) Obstructions and hazards on the escape route
- f) Fire detection systems defective

These issues resulted in a further enforcement notice being issued on the 29 August 2018 by the Lancashire Fire and Rescue for the fire safety issues.

The Panel was informed that historically the Fire Service had experienced problems with Sangam Balti House. An enforcement notice was previously issued on the 13 October 2015 following on from a complaint from a member of the public. There was a follow up inspection performed by the Fire Safety Inspector on the 17 November 2015 and the enforcement notice was withdrawn as the majority of the required work had been undertaken.

Mr Marshall asked the Panel to note that the Fire Safety Inspector also attended the premises on the 17 January 2017 at the request of the Council. A prohibition notice was served preventing the use of the bedroom for residential accommodation. However, the Licensing visit from the 24 August 2018 discovered that the Premises Licence Holder had not adhered to the prohibition order.

The premises was further visited on the 4 September 2018 by licensing officers in order to check the Premises Licence Holder was complying with the terms of his licence. There are 4 conditions within annex 2 on the Premises licence, they are:

- a) A challenge 21 policy will be in place.
- b) Regular inspections of the premises will take place.
- c) Ongoing staff training
- d) There shall be a digital CCTV system on the premises to cover the entrance door and restaurant. This will record 31 days digitally. The recordings should be made available to the police upon reasonable request.

Mr Marshall provided that the Premises Licence Holder was unable to show compliance of the above licensing conditions. It was explained that given the historical issues in respect of compliance with legal notices. Mr Marshall was of the

view that the bad practice at the premises needed to be considered. Previous warnings have not had any effect. It was however noted that since the visit the Premises Licence Holder had installed a CCTV system and the council was provided with photos and the invoice.

The Premises Licence Holder was then invited to present his case. Councillor Nelson on behalf of the Premises Licence Holder provided assurances to the Panel that the Premises Licence Holder now acknowledges the issues at the premises and was now fully compliant in respect of licencing conditions and the enforcement notice served on him by the Lancashire Fire and Rescue Service in August 2018.

Councillor Nelson also explained to the panel that there was some mitigating factors in respect of ill health in his family, namely his mother and wife. However, the Premises Licence Holder accepted that this was not a valid excuse for the non-compliance with legal notices.

Members enquired about how many workers the Premises Licence Holder had working for him and what measures were now in place. The Premises Licence Holder confirmed that he had a number of workers and that they all know where the fire extinguishers are and the fire evacuation point. He also provided that if he was not on site he had a manager and another worker who are fully aware of all the licensing requirements.

Mr Marshall provided to the panel that he believed revoking the licence would be too harsh in the circumstances. However, it was suggested that some kind of action was required to deter the Premises Licence Holder from going back to bad practice. Councillor Nelson on behalf of the Premises Licence Holder, also expressed his view that revocation was unnecessary and that although suspension is a meaningful deterrent for future he asked for it not to be over the Christmas period.

In reaching its decision the Panel took into account the following:

1. Both written and oral evidence presented in connection with the hearing
2. The Licencing Act 2003
3. S182 Revised Guidance of the Licencing Act 2003
4. South Ribble Borough Council – Licencing Policy

The Panel noted that the issues at the premises had undermined licensing objectives, namely the prevention of crime and disorder and public safety. The Panel also considered the steps it could take to address the undermining of the licensing objectives. It was noted that there was a training need for the Premises Licence Holder as he had inherited his licence through grandfather rights and the Premises Licence Holder didn't understand the importance of certain licencing conditions.

The Panel, in the circumstances, decided not to revoke the Premises Licence Holder licence. However, they were of the view that a suspension was justified as an appropriate and proportionate response to the promoting of licencing objectives.

Resolved (Unanimously):

That the decision is as follows:

- a) To suspend the premises licence for a period of 28 days

- b) To remove the existing conditions in Annex 2 and replace them with the following:-
- i) The premises shall operate and maintain a CCTV system which shall be in use during all times licensable activities are taking place and comply with the following criteria:
- a) *The system shall cover all entrances and exits of the premises, all external areas, and any areas of the premises used to store alcohol;*
 - b) *The focus of the cameras shall be so as to enable clear identification of persons on the premises;*
 - c) *The system will be capable of time and date stamping recordings and retaining said recordings for at least 28 days;*
 - d) *The Data Controller shall make footage available to a Police Officer or other authorised officer where such a request is made in accordance with the Data Protection Act or any subsequent or alternative legislation;*
- ii) The Premises Licence Holder to attend refresher training – a BIIA Level 2 course with a recognised provider within 3 months.
- iii) Regular staff training on fire safety and first aid to be provided by a recognised provider. Initial training should take place within 3 months. Training records to be documented and available for inspection on request to Licensing Officers.
- iv) A challenge 25 policy will be put in place and adhered to.

Any party who is aggrieved by the decision, has a right to appeal the decision to the Magistrates Court within 21 days.

Chair

Date