

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

Wednesday 6 December 2023

Present: Councillors Mandy Brar, Clive Baskerville and Genevieve Gosling

Officers: Mikey Lloyd, Oran Norris-Browne, Anthony Lenaghan, Ana Marcinkevic and Craig Hawkings

Appointment of Chair

Councillor Baskerville proposed Councillor Brar chaired the meeting. Councillor Gosling seconded this.

AGREED: That Councillor Brar be elected Chair for the duration of the meeting.

Apologies for Absence

No apologies for absence were received.

Declarations of Interest

Councillor Brar wanted to note that they previously were a licensee but were no longer a licensee.

Procedures of the Sub Committee

All parties present noted the procedures of the sub-committee.

Consideration of an application for to review a premises license

Craig Hawkings, Reporting Officer for the Royal Borough of Windsor & Maidenhead, introduced the report to the Sub-Committee and outlined the reasons why a hearing had needed to be convened. Craig Hawkings explained under section 51 of the Licensing Act 2003 a responsible authority, or any other person may apply to the relevant licensing authority for a review of a premises licence. Craig Hawkings outlined that the application included a statement from the applicant, Caroline Laird, which set out in detail the reasons why the application had been submitted and the evidence to support it.

The statement concluded by saying, one of the licensing objectives which underpinned the Licensing Act 2003 was the prevention of crime and disorder and all operators were expected to take steps to promote the licensing objectives. The Home Office (Immigration Enforcement) believed that Mr Surinder Kumar Rajput was not preventing crime and disorder and therefore should no longer be allowed to hold a premises licence. Mr Surinder Jumar Rajput was using his Hospitality businesses to employ illegal workers which was strictly prohibited under the Licencing Act 2003 and Immigration Act 1071(aa).

Craig Hawkings reminded all parties what the four licencing objectives set out in the Licencing Act 2003, which were:

- The prevention of crime and disorder
- Public safety

- The prevention of public nuisance, and
- The protection of children from harm

Councillor Baskerville asked if there had been any concerns in the past with the Premises Licence Holder and if these issues had arisen before. Craig Hawkings responded that there had been no concerns from the Licencing Team and stated that the Premises Licence had only recently been taken over by the Premises Licence Holder.

Surendra Panchal, legal representative for the Premises Licence Holder, clarified about documents of theirs that were not in the pack. Craig Hawkings said the documents in question were circulated separately to all parties present at the Sub-Committee.

Raj Hundal, Senior Officer for Immigration Enforcement, introduced the case on behalf of the applicant to the Sub-Committee. Raj Hundal explained that their operations were intelligence led and that significant concerns needed to be raised for them to action. A brief explanation was provided of how they attended the premises after receiving intelligence of illegal workers on site and it was noted that two workers were found to be working illegally. One worker was found to be working more hours than their visa allowed, and that they were being underpaid or not all of it was on the books. The second worker's right to work was found to have expired in 2014 and that they were being paid in cash with no National Insurance or Tax being paid as a result. Raj Hundal explained that during the visit in June 2023 they believed the Licence Premises Holder had adopted a two-tiered approach to staff, those that had a legal right to work and those that were off the books. Raj Hundal explained that in the suspension and conditions that had been proposed by the Premises Licence Holder, Immigration Enforcement did not feel that the conditions proposed were good enough to prevent illegal working. Raj Hundal added that if the Sub-Committee were inclined to add conditions, then they suggested the added condition of employment records for the premises needing to be kept up to date for all employees and workers and that they were stored at the premises and made available for inspection upon request by relevant officers.

Councillor Gosling asked the applicant if this was the only premises run by the Premises Licence Holder and if not, would they be visiting those premises? The Applicant explained that there was one other premises that the Premises Licence Holder ran but that they were intelligence led and so would not visit the other premises unless intelligence presented a case to do so.

Surendra Panchal asked the Applicant if they had seen the payslips regarding one of the employees mentioned. It was stated by the applicant that they had not seen the payslips in question and that at the time of their visit in June they were only presented with online banking statements that showed payment into the account. Surendra Panchal also highlighted in the report that the Applicant made note to the fact that the Premises Licence Holder had sponsored 60 visitors and asked the applicant if they were satisfied with those sponsorships? The Applicant agreed that the Premises Licence Holder had complied with those sponsorships but noted that most were for tourism purposes. Surendra Panchal also asked the Applicant if they were satisfied, should the additional condition they laid out, regarding right to work documents being on site at all times be added to the conditions. The Applicant explained that the employer should be doing it as standard but welcomed the condition.

The Chair asked the Premises Licence Holder if they had any record of the contract from the self-employed worker. Surendra Panchal said he had documentation from a solicitor that had been provided to the Immigration Enforcement.

The meeting was adjourned at 11:06am for the Sub-Committee to review the documents. The meeting reconvened at 11:14am.

Surendra Panchal, on behalf of the Premises Licence Holder (Surinder Kumar Rajput), presented their case. Surendra Panchal explained that the Premises Licence Holder was a businessman who had previously worked with prominent retail stores such as Sainsburys and Tesco. Surendra Panchal said that the Premises Licence Holder was someone who would not want to not follow the rules. It was circled back to how the Premises Licence Holder had applied for 60 sponsorships and complied with all. Surendra Panchal explained how there were issues with the previous Designated Premises Supervisor (DPS), who had employed one of the workers in question, and when the mistakes were realised, the DPS was relieved of his duties. Surendra Panchal said the Premises Licence Holder acknowledged that the law was broken by the outgoing DPS and was apologetic. It was noted that the request to add the Immigration Enforcement's condition of keeping an HR manual on site was supported and that the Premises Licence Holder was going to improve the premises with increased signage. Surendra Panchal also noted that the premises was prominent in the local community for gatherings such as car and cycle clubs.

Councillor Baskerville noted that the new DPS was hired in January 2023, but Immigration did not attend until June 2023, he questioned if the Premises Licence Holder was satisfied that the new DPS was up to the job? Surendra Panchal explained that the new DPS was still transitioning into the role when Immigration attended, but he noted that they had discussed with Immigration lawyers surrounding the workers and a fine was paid at the time.

The Chair asked why the new DPS had not checked the relevant paperwork/passports of the workers and why it took so long? Surendra Panchal responded by saying that one of the workers said his passport was away for renewal and it was questioned why it took so long.

The Applicant asked the Premises Licence Holder if they had a right to work regime in their other businesses as they were confused why someone with experience in one sector would not use that knowledge for another sector? IT was noted that the Premises Licence Holder did have a right to work regime in their other business.

The Applicant asked the Premises Licence Holder how long one of the workers in question, Kulwant Singh, was employed for? It was noted by Surendra Panchal that there was conflicting information in the statement as during covid the premises was not open and the person was not working. He explained that Kulwant Singh had worked there for two years.

The Applicant wanted to bring to the Sub-Committee's attention that the documents circulated by the Premises Licence Holder during the adjournment included a civil payment penalty of £20,000 which was paid, highlighting that if the worker in question was indeed self-employed then the penalty would not have been issued. The Premises Licence Holder would have appealed the penalty and not paid it, however they did pay the penalty. Surendra Panchal clarified that the penalty paid was in fact £14,000 not £20,000.

The Applicant summarised that there were differences between the workers statements and the presentation from the Premises Licence Holder and highlighted the payment of the civil penalty. The Applicant also noted the additional condition if the Sub-Committee decided that was the preferred outcome.

Surendra Panchal summarised on behalf of the Premises Licence Holder that they did not dispute the error from the old DPS and did not dispute the additional conditions laid out from Immigration Enforcement. They requested a short suspension rather than revocation.

Craig Hawkings then explained that the Sub-Committee had the following options available to them and to decide on which it considered appropriate for the promotion of the four licencing objectives. These options were:

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the designated premises supervisor

- To suspend the licence for a period not exceeding three months
- To revoke the licence.

The Applicants, the Premises Licence Holder, the Premises Licence Holder's Representative and the Reporting Officer left the room and took no further part in the meeting.

The Sub-Committee then began their deliberations alongside the Legal Officer and the Clerk. There was discussion from Councillor Gosling about how conditions would be checked, and if they would be checked regularly? The Legal Officer noted that due to the review, the premises would be flagged as a result and be subject to regular checks from both Immigration Officers and the RBWM Licencing Team.

Councillor Baskerville added that whilst the Licence Premises Holder said they would be happy to comply with conditions, he wondered why they had not done so previously.

The Chair noted that the conditions in the report plus the additional condition would perhaps be better than revoking the premise licence. Councillor Baskerville and Councillor Gosling both agreed as it was also noted that the Licence Premises Holder had sponsored many people in the past and this was also the first instance of any wrongdoing. They noted that the Licence Premises was also a prominent location in the area, that hosted many events for the public.

AGREED UNANIMOUSLY: That the premises was to remain open, with no suspension or revocation, along with the conditions listed in the report. However this was with the inclusion of an additional condition of employment records for the premises being kept up to date for all employees and workers, and that they be stored at the premises and made available for inspection upon request by relevant officers.

The meeting, which began at 10.35 am, finished at 11.57 am

Chair.....

Date.....