

## **LICENSING PANEL**

**THURSDAY, 7 SEPTEMBER 2017**

PRESENT:- Councillors Eric Shaw, Vera Tomlinson and Abdul Amin.

Apologies for absence were received from Councillors Carol Shelley.

### **67. Appointment of Chair**

Resolved – That Councillor Vera Tomlinson Chair this meeting of the Panel.  
(Councillor Tomlinson took the Chair.)

### **68. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

Councillor Abdul Amin made and personal declaration of interest as he was a Licensee in Swindon.

### **69. Application to review a Premises Licence in respect of Super Pizza, 39 Fleet Street, Swindon, SN1 1RE**

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Review of the Premises Licence for Super Pizza, 39 Fleet Street, Swindon, (b) written representations from Wiltshire Police in support of the review, (c) oral submissions in support of the application for a review received from PC Michael Diffin, M.B.E., (Police Licensing Officer), (d) oral submissions opposing the review by the Premises Licence (Mr Suliman Aruby), (e) questions from Members to the applicants and officers and answers received, (f) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy, and (g) advice from the Panel's legal advisor that (9) on page 18 of the agenda papers should not form part of the Panel's deliberations as no prosecution was currently being undertaken.

The Council's Licensing Manager introduce the report noting that:

- The Police had brought a review of the Premises Licence for Super Pizza, 39 Fleet Street under the Prevention of Crime and Disorder Licensing Objective.
- The options available to the Panel in respect of determining the review.
- Evidence submitted by the Police in support of their application as set out in the agenda papers.
- The hours of operation permitted under the current Premises Licence.
- A copy of the last Premises Licence issued in June 2010.
- Breaches of the Premises Licence witnessed by the Police.
- That an individual without the right to work in the United Kingdom was found, by the Police, whilst working at the premises.
- That the licensable activity at the premises was the provision of Late Night Refreshments.
- That the letter set on page 20 of the agenda papers from the Police to the

Premises Licence Holder had an incorrect date for officers attending the premises and should have read 11<sup>th</sup> June 2016.

- The Premises Licence could have been varied at any time to remove the requirement for a Door Supervisor but no such application had been made.

The Police case for a review and a summary of points raised can be broadly summarised as follows:

- That the condition relating to door supervisors was on the licence because the premises were in a Night-time Economy Area.
- That conditions on the premises licence relating to the employment of doorstaff and maintenance of CCTV equipment had been breached.
- On 21<sup>st</sup> July 2017 between the hours of 23:45 and 05:00 the Police observed that there was no SIA Doorman at the location.
- The Police visited the premises at 23:10 hours on 22<sup>nd</sup> July 2017 and found that there was no SIA Doorman present at the premises.
- Following identity checks the Police found an individual working in the kitchen who did not have the right to work in the United Kingdom.

Responses to questions to Wiltshire Police from Panel Members and the Premises Licence Holder and his representative can be broadly summarised as:

- That on 21<sup>st</sup> July 2017 he had been observing the premises whilst in plain clothes.
- Although the requirement for the maintenance of a door supervisor log was not condition on the Premises Licence the Police had sought a copy of one as evidence a Door Supervisor was on duty.
- That it was not unusual for Premises providing Late Night Refreshments to have Door Supervisors in Night-time Economy Areas.
- That Mr Aruby was the person named on the Premises Licence despite it being in another name.
- The Police asked for a copy of the CCTV footage for the evening to clarify whether a Door Supervisor had been working as claimed by Mr Aruby.
- No documentation was found for any staff at the premises and Mr Gul had been wanted for twelve months for being in the country illegally.

The Premises Licence Holder's case for opposing the review and a summary of points raised can be broadly summarised as follows:

- The business was mostly based upon take-away sales and so the doorman was sometimes late in arriving.
- The doorman was often inside the premises if business was slow.
- He had recently changed security providers and had a letter from the current providers, who were based in Swindon, available for inspection.
- The person found at the premises working in the kitchen without permission to live or work in the United Kingdom was a guest and at the time of the police visit was making himself a meal.
- He travelled from London daily Wednesday to Sunday and had a manager for the premises on Monday and Tuesday.
- Mr Gul (the person found be in the country illegally) was a guest, and as part of a small community in Swindon was offered food at the time of the Police

visit.

Responses to questions to the Premises Licence Holder from Panel Members and the Police can be broadly summarised as:

- The person managing the premises on Monday and Tuesday evening was qualified.
- There was no alcohol sold at the premises.
- Mr Gul had worked for him for a month in the summer before going to college in London.
- Mr Gul was making himself a pizza, as a guest, at the time of the Police visit and was not working.
- That the CCTV recorded and kept footage for a three period and then automatically deleted footage.
- He did not refused to provide the Police with CCTV footage during their visit on 22<sup>nd</sup> July; this was a misunderstanding as the Police only asked if the system was operating. He couldn't remember why the CCTV footage was not provided.
- AT the time of working for the company in the summer Mr Gul had a student visa.
- The reason Mr Gul was wearing blue gloves when preparing a pizza when he found on the premises by the Police was for hygiene reasons,
- That he checked all staff employed at the premises to ensure they had the right to work in the United Kingdom.
- The food hygiene award hanging on the in the name of Mr Gul had been issued in London and was there from when he had previously worked at the premises.
- The company providing the Door Supervisor was often busy until midnight and so sometimes the Door Supervisor would arrive late.
- He would advise the company providing the Door Supervisor of the hours worked by their employees during the week and pay only for these hours.
- The Door Supervisors weren't required to complete a log detailing the hours they worked.
- He couldn't afford security during the week and there was no need for it as it was quiet and so he had security on the weekends.

Resolved - After considering: -

1. The application to review the premises licence made by Wiltshire Police, together with additional evidence from Wiltshire Police; and
2. Representations and material put forward on behalf of the Premises Licence Holder;

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular the

prevention of crime and disorder;

The Panel determined that the Premises Licence for Super Pizza, 39 Fleet Street, Swindon be revoked.

### Reasons

1. Notwithstanding evidence from Mr Aruby that Mr Gul was making a pizza at the premises for his own consumption and not working, the Panel determined that he was illegally working on the premises on 22<sup>nd</sup> July based upon:

- i. Mr Gul was listed as the manager of the premises by the Council's Public Protection Department.
- ii. A certificate of food hygiene in the name of Mr Gul was displayed on the wall at the premises.
- iii. There was no evidence that a proof of right to work in the United Kingdom check had been made in respect of Mr Gul.
- iv. Mr Aruby confirmed that there was a history of Mr Gul working at the premises when he was a student. The Panel determined that this did not lessen the employer's subsequent legal obligation to check that the person in question had the right to work in the United Kingdom.
- v. There was no documentation presented by Mr Aruby in respect of employment records for staff at the premises.

The Chair reminded both parties that you had the right of appeal against the decision of this Panel and that any such appeal must be commenced within 21 days of this determination.